

By: Goldman

H.B. No. 1560

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Department of Licensing and Regulation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. GENERAL POWERS AND DUTIES

SECTION 1.01. Section 51.002, Occupations Code, is amended to read as follows:

Sec. 51.002. APPLICATION OF SUNSET ACT. ~~[(a)]~~ The Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission and the department are abolished September 1, 2033 ~~[2021]~~.

~~[(b) The review of the commission and department by the Sunset Advisory Commission under this section may not include a review of any program that was transferred to the department on or after September 1, 2016.]~~

SECTION 1.02. Section 51.054, Occupations Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The training program must provide the person with information regarding:

(1) the law governing ~~[legislation that created the]~~ department operations ~~[and the commission];~~

1           (2) the programs, functions, rules, and budget of  
2 ~~[operated by]~~ the department;

3           (3) the scope of and limitations on the rulemaking  
4 authority of the commission ~~[role and functions of the department];~~

5           (4) ~~[the rules of the department, with an emphasis on~~  
6 ~~the rules that relate to disciplinary and investigatory authority,~~

7           ~~[(5) the current budget for the department,~~

8           ~~[(6)]~~ the results of the most recent formal audit of  
9 the department;

10          (5) ~~[(7)]~~ the requirements of:

11           (A) laws relating to ~~[the]~~ open meetings, law, ~~[law,~~  
12 ~~Chapter 551, Government Code,~~

13           ~~[(B) the]~~ public information, law, ~~[law, Chapter 552,~~  
14 ~~Government Code,~~

15           ~~[(C) the]~~ administrative procedure, and  
16 disclosing conflicts of interest ~~[law, Chapter 2001, Government~~  
17 ~~Code]; and~~

18           (B) ~~[(D)]~~ other laws applicable to members of a  
19 state policy-making body in performing their duties ~~[relating to~~  
20 ~~public officials, including conflict-of-interest laws]; and~~

21          (6) ~~[(8)]~~ any applicable ethics policies adopted by  
22 the department or the Texas Ethics Commission.

23          (d) The executive director of the department shall create a  
24 training manual that includes the information required by  
25 Subsection (b). The executive director shall distribute a copy of  
26 the training manual annually to each member of the commission. Each  
27 member of the commission shall sign and submit to the executive

1 director a statement acknowledging that the member received and has  
2 reviewed the training manual.

3 SECTION 1.03. Section 51.209, Occupations Code, is amended  
4 by adding Subsections (a-1) and (a-2) to read as follows:

5 (a-1) An advisory board shall meet at the call of the  
6 executive director or the presiding officer of the commission.

7 (a-2) Notwithstanding Chapter 551, Government Code, an  
8 advisory board may meet by telephone conference call,  
9 videoconference, or other similar telecommunication method. A  
10 meeting held by telephone conference call, videoconference, or  
11 other similar telecommunication method is subject to the  
12 requirements of Sections 551.125(c), (d), (e), and (f), Government  
13 Code.

14 SECTION 1.04. Subchapter D, Chapter 51, Occupations Code,  
15 is amended by adding Sections 51.2095 and 51.211 to read as follows:

16 Sec. 51.2095. INTERDISCIPLINARY ADVISORY BOARDS. The  
17 executive director or the presiding officer of the commission may  
18 appoint interdisciplinary advisory boards consisting of members  
19 from various businesses, industries, general trades, or  
20 occupations to provide expertise related to a program regulated by  
21 the department.

22 Sec. 51.211. RISK-BASED INSPECTIONS. (a) The commission  
23 shall adopt rules for conducting inspections based on risk to the  
24 public.

25 (b) The rules must provide for the prioritization of  
26 inspections based on the following factors:

27 (1) whether a license holder has repeatedly violated a

1 law establishing a regulatory program administered by the  
2 department or a rule or order of the commission or executive  
3 director;

4 (2) the number of complaints filed against a license  
5 holder;

6 (3) negative publicity regarding a license holder; and

7 (4) any other risk-based factor identified by the  
8 commission.

9 (c) The commission may adopt rules that provide for the use  
10 of alternative inspection methods, including the use of  
11 videoconference technology or other methods instead of conducting  
12 an in-person inspection, in circumstances the commission considers  
13 appropriate.

14 SECTION 1.05. Section 51.252, Occupations Code, is amended  
15 by amending Subsections (a) and (c) and adding Subsection (b-2) to  
16 read as follows:

17 (a) The department shall maintain a system to promptly and  
18 efficiently act on complaints filed with the department. The  
19 department shall maintain information about parties to the  
20 complaint, the subject matter of the complaint, a summary of the  
21 results of the review or investigation of the complaint, and its  
22 disposition [~~The executive director shall establish methods by~~  
23 ~~which consumers and service recipients are notified of the name,~~  
24 ~~mailing address, and telephone number of the department for the~~  
25 ~~purpose of directing complaints to the department. The department~~  
26 ~~shall provide to the person filing the complaint and to each person~~  
27 ~~who is a subject of the complaint information about the~~

1 ~~department's policies and procedures relating to complaint~~  
2 ~~investigation and resolution].~~

3 (b-2) The department shall make information available  
4 describing its procedures for complaint investigation and  
5 resolution.

6 (c) The department [~~, at least quarterly and until final~~  
7 ~~disposition of the complaint,~~] shall periodically notify the  
8 [~~person filing the] complaint parties [and each person who is a~~  
9 ~~subject of the complaint]~~ of the status of the complaint until final  
10 disposition [investigation] unless the notice would jeopardize an  
11 [~~undercover]~~ investigation.

12 SECTION 1.06. Subchapter E, Chapter 51, Occupations Code,  
13 is amended by adding Sections 51.2521 and 51.255 to read as follows:

14 Sec. 51.2521. COMPLAINT INVESTIGATION. (a) The department  
15 shall assign priorities and investigate complaints based on risk to  
16 the public of the conduct alleged in the complaint.

17 (b) If the commission determines at any time that an  
18 allegation made or formal complaint submitted by a person is  
19 inappropriate or without merit, the commission shall dismiss the  
20 complaint and no further action may be taken. The commission may  
21 delegate to the department the duty to dismiss complaints under  
22 this subsection. The department shall inform the commission of all  
23 dismissals made under this subsection.

24 Sec. 51.255. STATISTICAL ANALYSIS OF COMPLAINTS. (a) The  
25 department shall make available on the department's Internet  
26 website a statistical analysis of the complaints received by the  
27 department.

1        (b) The analysis under this section must include aggregate  
2 information on the number, source, type, and disposition of  
3 complaints received during the preceding state fiscal year and must  
4 include, as applicable, the following information for each program  
5 regulated by the department:

6            (1) the number of license holders;

7            (2) the number of complaints received against license  
8 holders;

9            (3) the number of complaints resolved and the manner  
10 in which they were resolved, including:

11            (A) the number of complaints dismissed and the  
12 reasons for dismissal;

13            (B) the number of contested cases referred to and  
14 heard by the State Office of Administrative Hearings;

15            (C) the number of cases appealed to a district  
16 court;

17            (D) the number of complaints resulting in  
18 disciplinary action, the disciplinary action taken, and whether the  
19 disciplinary action was imposed by an agreed settlement or default  
20 order issued by the executive director or a final order issued by  
21 the commission;

22            (E) the manner in which complaints were resolved  
23 categorized by the nature of the alleged violation; and

24            (F) the number of complaints resolved,  
25 categorized by whether the complaint originated from department  
26 staff or from the public;

27            (4) the average time required to resolve a complaint;

1           (5) the average amount of administrative penalties  
2 assessed; and

3           (6) the number and amount of refunds ordered by the  
4 commission or executive director.

5           SECTION 1.07. Section 51.351, Occupations Code, is amended  
6 by adding Subsection (e) to read as follows:

7           (e) The department may take action under Section 51.353 for  
8 a violation identified during an inspection.

9           SECTION 1.08. Subchapter G, Chapter 51, Occupations Code,  
10 is amended by adding Sections 51.3531 and 51.359 to read as follows:

11           Sec. 51.3531. DENIAL OF LICENSE RENEWAL. The commission  
12 may deny the renewal of a license if the applicant is in violation  
13 of an order of the commission or the executive director.

14           Sec. 51.359. REFUND. (a) Subject to Subsection (b), the  
15 commission or executive director may order a license holder to pay a  
16 refund to a consumer as provided in an agreed settlement, default  
17 order, or commission order instead of or in addition to imposing an  
18 administrative penalty or other sanction.

19           (b) The amount of a refund ordered may not exceed the amount  
20 the consumer paid to the license holder for a service regulated by  
21 the department. The commission or executive director may not  
22 require payment of other damages or estimate harm in a refund order.

23           SECTION 1.09. Section 51.4012(a), Occupations Code, is  
24 amended to read as follows:

25           (a) Notwithstanding any other law, the commission may  
26 determine that a person is not eligible for a license based on the  
27 person's criminal history [~~or other information that indicates that~~

1 ~~the person lacks the honesty, trustworthiness, and integrity to~~  
2 ~~hold a license issued by the department].~~

3 SECTION 1.10. Section 51.405, Occupations Code, is amended  
4 to read as follows:

5 Sec. 51.405. CONTINUING EDUCATION. (a) The commission  
6 shall recognize, prepare, or administer continuing education  
7 programs for license holders. A license holder must participate in  
8 the programs to the extent required by the commission to keep the  
9 person's license.

10 (b) The commission by rule may establish a minimum number of  
11 hours of continuing education required for license renewal.

12 (c) In adopting rules under this section for a program  
13 regulated by the department, the commission shall consult, if  
14 applicable, with the advisory board established for the program.

15 SECTION 1.11. Subchapter H, Chapter 51, Occupations Code,  
16 is amended by adding Section 51.409 to read as follows:

17 Sec. 51.409. FINANCIAL DISCLOSURE STATEMENT. (a) The  
18 commission by rule may require a person, other than an individual,  
19 applying for a license issued by the department to submit with the  
20 license application a financial disclosure statement. The rules  
21 may require any of the following information to be disclosed based  
22 on the type of license for which the application is submitted:

23 (1) the name of the applicable business entity;

24 (2) the name of each person who has a direct financial  
25 investment in the business;

26 (3) the name of each person, other than an individual,

27 who:

1                   (A) has a financial investment in the business;

2 and

3                   (B) is not otherwise disclosed under Subdivision

4 (2);

5                   (4) the total amount or percentage of the financial  
6 investment made by each person described by Subdivision (2); and

7                   (5) the name of each of the following persons  
8 associated with the business, if the person is not otherwise  
9 disclosed under Subdivision (2) or (3):

10                   (A) a partner;

11                   (B) an officer;

12                   (C) a director;

13                   (D) a managing employee;

14                   (E) an owner or person who controls the owner;

15 and

16                   (F) a person who acts as a controlling person of  
17 the business through the exercise of direct or indirect influence  
18 or control over the management of the business, the expenditure of  
19 money by the business, or a policy of the business, including:

20                               (i) any management company, landlord,  
21 marketing company, or similar person who operates or contracts for  
22 the operation of the business and, if the business is a publicly  
23 traded corporation or is controlled by a publicly traded  
24 corporation, any officer or director of the corporation;

25                               (ii) an individual who has a personal,  
26 familial, or other relationship with an owner, manager, landlord,  
27 tenant, or provider of a business that allows the individual to

1 exercise actual control of the business; and  
2 (iii) any other person the commission by  
3 rule requires to be included based on the person's exercise of  
4 direct or indirect influence or control other than a shareholder or  
5 lender of the corporation.

6 (b) The department may deny an application for a license or  
7 suspend or revoke a license on the grounds that a business has  
8 failed to disclose a relationship for which disclosure is required  
9 by rules adopted under this section.

10 SECTION 1.12. Section 755.025(a), Health and Safety Code,  
11 is amended to read as follows:

12 (a) The executive director shall require each boiler to be  
13 inspected internally and externally at the time of initial  
14 installation and at subsequent intervals in accordance with the  
15 rules for risk-based inspections adopted under Section 51.211,  
16 Occupations Code [~~as provided by this section~~]. The executive  
17 director may provide that the inspection be performed by any  
18 inspector.

19 SECTION 1.13. Section 755.026(a), Health and Safety Code,  
20 is amended to read as follows:

21 (a) With the approval of the executive director and the  
22 inspection agency that has jurisdiction for the power boiler, the  
23 interval between internal inspections may be extended in accordance  
24 with the rules for risk-based inspections adopted under Section  
25 51.211, Occupations Code [~~to a period not exceeding a total of 60~~  
26 ~~months. For unfired steam boilers or steam collection or~~  
27 ~~liberation drums of process steam generators, the inspection~~

1 ~~interval may be extended to the next scheduled downtime of the~~  
2 ~~boiler, but not exceeding a total of:~~

3 ~~(1) 84 months for unfired steam boilers,~~

4 ~~(2) 120 months for steam collection or liberation~~  
5 ~~drums of process steam generators manufactured before January 1,~~  
6 ~~1970; or~~

7 ~~(3) 144 months for steam collection or liberation~~  
8 ~~drums of process steam generators manufactured on or after January~~  
9 ~~1, 1970].~~

10 SECTION 1.14. Section 202.505, Occupations Code, is amended  
11 to read as follows:

12 Sec. 202.505. REEXAMINATION IF LICENSE SUSPENDED OR  
13 REVOKED. The department may refuse to reinstate a license or to  
14 issue a new license until a podiatrist has passed the regular  
15 license examination if the commission or executive director  
16 suspended or revoked the license for:

17 (1) failure to satisfy continuing education  
18 requirements [~~under Section 202.305~~]; or

19 (2) nonpayment of the license renewal fee.

20 SECTION 1.15. Section 402.207(c), Occupations Code, is  
21 amended to read as follows:

22 (c) An apprentice permit holder shall work under the  
23 supervision of a license holder for at least one year. [~~During the~~  
24 ~~apprentice year, the apprentice permit holder shall complete 20~~  
25 ~~hours of classroom continuing education as required by Section~~  
26 ~~402.303 for a license holder.~~]

27 SECTION 1.16. Section 402.305, Occupations Code, is amended

1 to read as follows:

2           Sec. 402.305. CONTINUING EDUCATION EXEMPTIONS.           The  
3 department may renew the license of a license holder who does not  
4 comply with the applicable continuing education requirements [~~of~~  
5 ~~Section 402.303 or 402.304~~] if the license holder:

6           (1) was licensed for the first time during the 24  
7 months before the reporting date; or

8           (2) submits proof from an attending physician that the  
9 license holder suffered a serious or disabling illness or physical  
10 disability that prevented compliance with the continuing education  
11 requirements during the 24 months before the reporting date.

12           SECTION 1.17. Section 802.062(b), Occupations Code, is  
13 amended to read as follows:

14           (b) An [The] inspection by the department must be conducted  
15 during the facility's normal business hours, and the licensed  
16 breeder or a representative of the licensed breeder must be given a  
17 reasonable opportunity to be present during the inspection.

18           SECTION 1.18. Section 1152.106, Occupations Code, is  
19 amended to read as follows:

20           Sec. 1152.106. [~~MEETINGS,~~] VOTE REQUIRED FOR ACTION. [~~(a)~~  
21 ~~The council shall meet at least semiannually at the call of the~~  
22 ~~presiding officer or at the call of a majority of its members.~~

23           [~~(b)~~] A decision of the council is not effective unless it  
24 receives the affirmative vote of at least four members.

25           SECTION 1.19. Section 1953.106, Occupations Code, is  
26 amended to read as follows:

27           Sec. 1953.106. RENEWAL OF CERTIFICATE. [~~(a)~~] To renew a

1 certificate of registration under this chapter, a professional  
2 sanitarian must:

3 (1) pay to the department a renewal fee prescribed by  
4 the commission by rule; and

5 (2) provide proof of completion of any applicable  
6 continuing education requirements prescribed by the commission by  
7 rule.

8 SECTION 1.20. Section 1958.104, Occupations Code, is  
9 amended to read as follows:

10 Sec. 1958.104. RULES REGARDING LICENSE APPLICATION. The  
11 commission shall adopt rules regarding a license application. The  
12 commission shall adopt rules that establish minimum requirements  
13 for a license, including:

14 (1) the type of license;

15 (2) the qualifications for the license, including any  
16 previous training required under Section 1958.106;

17 (3) renewal requirements for the license [~~, including~~  
18 ~~ongoing continuing education required under Section 1958.106~~]; and

19 (4) liability insurance requirements for the license.

20 SECTION 1.21. Section 1958.106, Occupations Code, is  
21 amended to read as follows:

22 Sec. 1958.106. TRAINING [~~, CONTINUING EDUCATION~~]. (a) The  
23 commission shall adopt rules regarding training required under this  
24 chapter [~~and continuing education required for a license holder~~  
25 ~~under this chapter~~].

26 (b) The rules may include requirements regarding training  
27 [~~and continuing education~~] providers, including rules

1 establishing:

- 2 (1) accreditation by the department;
- 3 (2) curriculum requirements; and
- 4 (3) qualifications.

5 SECTION 1.22. Section 2308.159(c), Occupations Code, is  
6 amended to read as follows:

7 (c) A license holder may renew a license issued under this  
8 chapter by:

- 9 (1) submitting an application on a form prescribed by  
10 the executive director;
- 11 (2) submitting evidence demonstrating compliance with  
12 the requirements for the license type as required by this chapter or  
13 commission rule;
- 14 (3) paying a renewal fee; and
- 15 (4) completing any applicable continuing education  
16 requirements [~~as required by Section 2308.157~~].

17 SECTION 1.23. The heading to Section 2308.2065, Occupations  
18 Code, is amended to read as follows:

19 Sec. 2308.2065. FEES FOR NONCONSENT TOWS [~~REFUNDS~~].

20 SECTION 1.24. The following provisions are repealed:

- 21 (1) Section 1001.058(h), Education Code;
- 22 (2) Section 469.053(e), Government Code;
- 23 (3) Section 754.012(d), Health and Safety Code;
- 24 (4) Section 754.0174, Health and Safety Code;
- 25 (5) Section 755.016, Health and Safety Code;
- 26 (6) Sections 755.025(b), (c), (d), and (e), Health and  
27 Safety Code;

- 1           (7) Sections 755.026(c) and (c-1), Health and Safety
- 2 Code;
- 3           (8) Section 51.0021, Occupations Code;
- 4           (9) Section 51.252(d), Occupations Code;
- 5           (10) Section 202.305, Occupations Code;
- 6           (11) Section 202.5085, Occupations Code;
- 7           (12) Section 203.304, Occupations Code;
- 8           (13) Section 203.406, Occupations Code;
- 9           (14) Section 401.355, Occupations Code;
- 10          (15) Section 402.303, Occupations Code;
- 11          (16) Section 403.152, Occupations Code;
- 12          (17) Section 455.0571, Occupations Code;
- 13          (18) Section 506.105, Occupations Code;
- 14          (19) Section 605.261, Occupations Code;
- 15          (20) Section 701.303, Occupations Code;
- 16          (21) Section 701.512, Occupations Code;
- 17          (22) Section 802.062(a), Occupations Code;
- 18          (23) Section 802.065(e), Occupations Code;
- 19          (24) Section 1151.1581, Occupations Code;
- 20          (25) Section 1152.204, Occupations Code;
- 21          (26) Section 1302.208(a), Occupations Code;
- 22          (27) Section 1305.055, Occupations Code;
- 23          (28) Section 1305.168, Occupations Code;
- 24          (29) Section 1901.107(a), Occupations Code;
- 25          (30) Section 1952.1051, Occupations Code;
- 26          (31) Section 1958.056(b), Occupations Code;
- 27          (32) Section 2303.056(b), Occupations Code;

- 1 (33) Section 2308.055, Occupations Code;
- 2 (34) Section 2308.157, Occupations Code;
- 3 (35) Section 2308.2065(c), Occupations Code;
- 4 (36) Section 2309.056, Occupations Code; and
- 5 (37) Section 2309.106(a), Occupations Code.

6 SECTION 1.25. (a) Except as provided by Subsection (b) of  
7 this section, Section 51.054, Occupations Code, as amended by this  
8 article, applies to a member of the Texas Commission of Licensing  
9 and Regulation appointed before, on, or after the effective date of  
10 this Act.

11 (b) A member of the Texas Commission of Licensing and  
12 Regulation who, before the effective date of this Act, completed  
13 the training program required by Section 51.054, Occupations Code,  
14 as that law existed before the effective date of this Act, is only  
15 required to complete additional training on the subjects added by  
16 this article to the training program required by Section 51.054,  
17 Occupations Code. A member described by this subsection may not  
18 vote, deliberate, or be counted as a member in attendance at a  
19 meeting of the commission held on or after December 1, 2021, until  
20 the member completes the additional training.

21 ARTICLE 2. DEREGULATION

22 SECTION 2.01. The following provisions of the Occupations  
23 Code are repealed:

- 24 (1) Chapter 1703;
- 25 (2) Chapter 1802; and
- 26 (3) Section 2052.002(11-a).

27 SECTION 2.02. Articles 18.19(c), (d), and (e), Code of

1 Criminal Procedure, are amended to read as follows:

2 (c) If there is no prosecution or conviction for an offense  
3 involving the weapon seized, the magistrate to whom the seizure was  
4 reported shall, before the 61st day after the date the magistrate  
5 determines that there will be no prosecution or conviction, notify  
6 in writing the person found in possession of the weapon that the  
7 person is entitled to the weapon upon written request to the  
8 magistrate. The magistrate shall order the weapon returned to the  
9 person found in possession before the 61st day after the date the  
10 magistrate receives a request from the person. If the weapon is not  
11 requested before the 61st day after the date of notification, the  
12 magistrate shall, before the 121st day after the date of  
13 notification, order the weapon destroyed, sold at public sale by  
14 the law enforcement agency holding the weapon or by an auctioneer  
15 [~~licensed under Chapter 1802, Occupations Code~~], or forfeited to  
16 the state for use by the law enforcement agency holding the weapon  
17 or by a county forensic laboratory designated by the magistrate. If  
18 the magistrate does not order the return, destruction, sale, or  
19 forfeiture of the weapon within the applicable period prescribed by  
20 this subsection, the law enforcement agency holding the weapon may  
21 request an order of destruction, sale, or forfeiture of the weapon  
22 from the magistrate. Only a firearms dealer licensed under 18  
23 U.S.C. Section 923 may purchase a weapon at public sale under this  
24 subsection. Proceeds from the sale of a seized weapon under this  
25 subsection shall be transferred, after the deduction of court costs  
26 to which a district court clerk is entitled under Article 59.05(f),  
27 followed by the deduction of auction costs, to the law enforcement

1 agency holding the weapon.

2 (d) A person either convicted or receiving deferred  
3 adjudication under Chapter 46, Penal Code, is entitled to the  
4 weapon seized upon request to the court in which the person was  
5 convicted or placed on deferred adjudication. However, the court  
6 entering the judgment shall order the weapon destroyed, sold at  
7 public sale by the law enforcement agency holding the weapon or by  
8 an auctioneer [~~licensed under Chapter 1802, Occupations Code~~], or  
9 forfeited to the state for use by the law enforcement agency holding  
10 the weapon or by a county forensic laboratory designated by the  
11 court if:

12 (1) the person does not request the weapon before the  
13 61st day after the date of the judgment of conviction or the order  
14 placing the person on deferred adjudication;

15 (2) the person has been previously convicted under  
16 Chapter 46, Penal Code;

17 (3) the weapon is one defined as a prohibited weapon  
18 under Chapter 46, Penal Code;

19 (4) the offense for which the person is convicted or  
20 receives deferred adjudication was committed in or on the premises  
21 of a playground, school, video arcade facility, or youth center, as  
22 those terms are defined by Section 481.134, Health and Safety Code;  
23 or

24 (5) the court determines based on the prior criminal  
25 history of the defendant or based on the circumstances surrounding  
26 the commission of the offense that possession of the seized weapon  
27 would pose a threat to the community or one or more individuals.

1 (e) If the person found in possession of a weapon is  
2 convicted of an offense involving the use of the weapon, before the  
3 61st day after the date of conviction the court entering judgment of  
4 conviction shall order destruction of the weapon, sale at public  
5 sale by the law enforcement agency holding the weapon or by an  
6 auctioneer [~~licensed under Chapter 1802, Occupations Code~~], or  
7 forfeiture to the state for use by the law enforcement agency  
8 holding the weapon or by a county forensic laboratory designated by  
9 the court. If the court entering judgment of conviction does not  
10 order the destruction, sale, or forfeiture of the weapon within the  
11 period prescribed by this subsection, the law enforcement agency  
12 holding the weapon may request an order of destruction, sale, or  
13 forfeiture of the weapon from a magistrate. Only a firearms dealer  
14 licensed under 18 U.S.C. Section 923 may purchase a weapon at public  
15 sale under this subsection. Proceeds from the sale of a seized  
16 weapon under this subsection shall be transferred, after the  
17 deduction of court costs to which a district court clerk is entitled  
18 under Article 59.05(f), followed by the deduction of auction costs,  
19 to the law enforcement agency holding the weapon.

20 SECTION 2.03. Section 54.0405(d), Family Code, is amended  
21 to read as follows:

22 (d) A polygraph examination required as a condition of  
23 probation under Subsection (a) must be administered by an  
24 individual who is [+

25 [~~(1)~~] specified by the local juvenile probation  
26 department supervising the child [~~, and~~

27 [~~(2) licensed as a polygraph examiner under Chapter~~

1 ~~1703, Occupations Code~~].

2 SECTION 2.04. Sections 411.0074(c) and (d), Government  
3 Code, are amended to read as follows:

4 (c) The polygraph examination required by this section may  
5 only be administered by a polygraph examiner [~~licensed under~~  
6 ~~Chapter 1703, Occupations Code,~~] who:

7 (1) is a peace officer commissioned by the department;  
8 or

9 (2) has a minimum of two years of experience  
10 conducting preemployment polygraph examinations for a law  
11 enforcement agency.

12 (d) The department and the polygraph examiner shall  
13 maintain the confidentiality of the results of a polygraph  
14 examination administered under this section, except that [+

15 ~~(1) the department and the polygraph examiner may~~  
16 ~~disclose the results in accordance with Section 1703.306,~~  
17 ~~Occupations Code, and~~

18 ~~(2) notwithstanding Section 1703.306, Occupations~~  
19 ~~Code,~~] the department may disclose any admission of criminal  
20 conduct made during the course of an examination to another  
21 appropriate governmental entity.

22 SECTION 2.05. Section 245.053(d), Human Resources Code, is  
23 amended to read as follows:

24 (d) A polygraph examination required as a condition of  
25 release under Subsection (a) must be administered by an individual  
26 who is [+

27 ~~(1)]~~ specified by the department [~~, and~~

1           ~~[(2) licensed as a polygraph examiner under Chapter~~  
2 ~~1703, Occupations Code].~~

3           SECTION 2.06. Section 252.022(a), Local Government Code, is  
4 amended to read as follows:

5           (a) This chapter does not apply to an expenditure for:

6                 (1) a procurement made because of a public calamity  
7 that requires the immediate appropriation of money to relieve the  
8 necessity of the municipality's residents or to preserve the  
9 property of the municipality;

10                (2) a procurement necessary to preserve or protect the  
11 public health or safety of the municipality's residents;

12                (3) a procurement necessary because of unforeseen  
13 damage to public machinery, equipment, or other property;

14                (4) a procurement for personal, professional, or  
15 planning services;

16                (5) a procurement for work that is performed and paid  
17 for by the day as the work progresses;

18                (6) a purchase of land or a right-of-way;

19                (7) a procurement of items that are available from  
20 only one source, including:

21                         (A) items that are available from only one source  
22 because of patents, copyrights, secret processes, or natural  
23 monopolies;

24                         (B) films, manuscripts, or books;

25                         (C) gas, water, and other utility services;

26                         (D) captive replacement parts or components for  
27 equipment;

1 (E) books, papers, and other library materials  
2 for a public library that are available only from the persons  
3 holding exclusive distribution rights to the materials; and

4 (F) management services provided by a nonprofit  
5 organization to a municipal museum, park, zoo, or other facility to  
6 which the organization has provided significant financial or other  
7 benefits;

8 (8) a purchase of rare books, papers, and other  
9 library materials for a public library;

10 (9) paving drainage, street widening, and other public  
11 improvements, or related matters, if at least one-third of the cost  
12 is to be paid by or through special assessments levied on property  
13 that will benefit from the improvements;

14 (10) a public improvement project, already in  
15 progress, authorized by the voters of the municipality, for which  
16 there is a deficiency of funds for completing the project in  
17 accordance with the plans and purposes authorized by the voters;

18 (11) a payment under a contract by which a developer  
19 participates in the construction of a public improvement as  
20 provided by Subchapter C, Chapter 212;

21 (12) personal property sold:

22 (A) at an auction [~~by a state licensed~~  
23 ~~auctioneer~~];

24 (B) at a going out of business sale held in  
25 compliance with Subchapter F, Chapter 17, Business & Commerce Code;

26 (C) by a political subdivision of this state, a  
27 state agency of this state, or an entity of the federal government;

1 or

2 (D) under an interlocal contract for cooperative  
3 purchasing administered by a regional planning commission  
4 established under Chapter 391;

5 (13) services performed by blind or severely disabled  
6 persons;

7 (14) goods purchased by a municipality for subsequent  
8 retail sale by the municipality;

9 (15) electricity; or

10 (16) advertising, other than legal notices.

11 SECTION 2.07. Section 262.024(a), Local Government Code, is  
12 amended to read as follows:

13 (a) A contract for the purchase of any of the following  
14 items is exempt from the requirement established by Section 262.023  
15 if the commissioners court by order grants the exemption:

16 (1) an item that must be purchased in a case of public  
17 calamity if it is necessary to make the purchase promptly to relieve  
18 the necessity of the citizens or to preserve the property of the  
19 county;

20 (2) an item necessary to preserve or protect the  
21 public health or safety of the residents of the county;

22 (3) an item necessary because of unforeseen damage to  
23 public property;

24 (4) a personal or professional service;

25 (5) any individual work performed and paid for by the  
26 day, as the work progresses, provided that no individual is  
27 compensated under this subsection for more than 20 working days in

1 any three month period;

2 (6) any land or right-of-way;

3 (7) an item that can be obtained from only one source,  
4 including:

5 (A) items for which competition is precluded  
6 because of the existence of patents, copyrights, secret processes,  
7 or monopolies;

8 (B) films, manuscripts, or books;

9 (C) electric power, gas, water, and other utility  
10 services; and

11 (D) captive replacement parts or components for  
12 equipment;

13 (8) an item of food;

14 (9) personal property sold:

15 (A) at an auction [~~by a state licensed~~  
16 ~~auctioneer~~];

17 (B) at a going out of business sale held in  
18 compliance with Subchapter F, Chapter 17, Business & Commerce Code;  
19 or

20 (C) by a political subdivision of this state, a  
21 state agency of this state, or an entity of the federal government;

22 (10) any work performed under a contract for community  
23 and economic development made by a county under Section 381.004; or

24 (11) vehicle and equipment repairs.

25 SECTION 2.08. Section 263.153(c), Local Government Code, is  
26 amended to read as follows:

27 (c) A county that contracts with an auctioneer [~~licensed~~

1 ~~under Chapter 1802, Occupations Code,~~] who uses an Internet auction  
2 site offering online bidding through the Internet to sell surplus  
3 or salvage property under this subchapter having an estimated value  
4 of not more than \$500 shall satisfy the notice requirement under  
5 this section by posting the property on the site for at least 10  
6 days unless the property is sold before the 10th day.

7 SECTION 2.09. Section 1101.005, Occupations Code, is  
8 amended to read as follows:

9 Sec. 1101.005. APPLICABILITY OF CHAPTER. This chapter  
10 does not apply to:

- 11 (1) an attorney licensed in this state;
- 12 (2) an attorney-in-fact authorized under a power of  
13 attorney to conduct not more than three real estate transactions  
14 annually;
- 15 (3) a public official while engaged in official  
16 duties;
- 17 (4) an auctioneer [~~licensed under Chapter 1802~~] while  
18 conducting the sale of real estate by auction if the auctioneer does  
19 not perform another act of a broker;
- 20 (5) a person conducting a real estate transaction  
21 under a court order or the authority of a will or written trust  
22 instrument;
- 23 (6) a person employed by an owner in the sale of  
24 structures and land on which structures are located if the  
25 structures are erected by the owner in the course of the owner's  
26 business;
- 27 (7) an on-site manager of an apartment complex;

1 (8) an owner or the owner's employee who leases the  
2 owner's improved or unimproved real estate; or

3 (9) a transaction involving:

4 (A) the sale, lease, or transfer of a mineral or  
5 mining interest in real property;

6 (B) the sale, lease, or transfer of a cemetery  
7 lot;

8 (C) the lease or management of a hotel or motel;  
9 or

10 (D) the sale of real property under a power of  
11 sale conferred by a deed of trust or other contract lien.

12 SECTION 2.10. Section 2052.107, Occupations Code, is  
13 amended to read as follows:

14 Sec. 2052.107. OTHER COMBATIVE SPORTS LICENSES. Unless a  
15 person holds a license or registration issued under this chapter,  
16 the person may not act as a combative sports:

17 (1) professional contestant;

18 (2) manager of a professional contestant;

19 (3) referee; or

20 (4) judge [+

21 [~~(5) second,~~

22 [~~(6) matchmaker, or~~

23 [~~(7) event coordinator~~].

24 SECTION 2.11. Sections 33.25(b), (f), and (g), Tax Code,  
25 are amended to read as follows:

26 (b) The commissioners court of a county having a population  
27 of three million or more by official action may authorize a peace

1 officer or the collector for the county charged with selling  
2 property under this subchapter by public auction to enter into an  
3 agreement with an auctioneer [~~a person who holds an auctioneer's~~  
4 ~~license~~] to advertise the auction sale of the property and to  
5 conduct the auction sale of the property. The agreement may provide  
6 for on-line bidding and sale.

7 (f) The proceeds of a sale of property under this section  
8 shall be applied to:

9 (1) any compensation owed to or any expense advanced  
10 by the [~~licensed~~] auctioneer under an agreement entered into under  
11 Subsection (b) or a service provider under an agreement entered  
12 into under Subsection (c);

13 (2) all usual costs, expenses, and fees of the seizure  
14 and sale, payable to the peace officer conducting the sale;

15 (3) all additional expenses incurred in advertising  
16 the sale or in removing, storing, preserving, or safeguarding the  
17 seized property pending its sale;

18 (4) all usual court costs payable to the clerk of the  
19 court that issued the tax warrant; and

20 (5) taxes, penalties, interest, and attorney's fees  
21 included in the application for warrant.

22 (g) The peace officer or [~~licensed~~] auctioneer conducting  
23 the sale shall pay all proceeds from the sale to the collector  
24 designated in the tax warrant for distribution as required by  
25 Subsection (f).

26 SECTION 2.12. Section [460.406\(c\)](#), Transportation Code, is  
27 amended to read as follows:

1 (c) The board of directors may authorize the negotiation of  
2 a contract without competitive sealed bids or proposals if:

3 (1) the aggregate amount involved in the contract is  
4 less than the greater of:

5 (A) \$50,000; or

6 (B) the amount of an expenditure under a contract  
7 that would require a municipality to comply with Section  
8 [252.021\(a\)](#), Local Government Code;

9 (2) the contract is for construction for which not  
10 more than one bid or proposal is received;

11 (3) the contract is for services or property for which  
12 there is only one source or for which it is otherwise impracticable  
13 to obtain competition, including:

14 (A) items that are available from only one source  
15 because of patents, copyrights, secret processes, or natural  
16 monopolies;

17 (B) gas, water, and other utility services; and

18 (C) captive replacement parts or components for  
19 equipment;

20 (4) the contract is to respond to an emergency for  
21 which the public exigency does not permit the delay incident to the  
22 competitive process;

23 (5) the contract is for personal, professional, or  
24 planning services;

25 (6) the contract, without regard to form and which may  
26 include bonds, notes, loan agreements, or other obligations, is for  
27 the purpose of borrowing money or is a part of a transaction

1 relating to the borrowing of money, including:

2 (A) a credit support agreement, such as a line or  
3 letter of credit or other debt guaranty;

4 (B) a bond, note, debt sale or purchase, trustee,  
5 paying agent, remarketing agent, indexing agent, or similar  
6 agreement;

7 (C) an agreement with a securities dealer,  
8 broker, or underwriter; and

9 (D) any other contract or agreement considered by  
10 the board of directors to be appropriate or necessary in support of  
11 the authority's financing activities;

12 (7) the contract is for work that is performed and paid  
13 for by the day as the work progresses;

14 (8) the contract is for the lease or purchase of an  
15 interest in land;

16 (9) the contract is for the purchase of personal  
17 property sold:

18 (A) at an auction [~~by a state licensed~~  
19 ~~auctioneer~~];

20 (B) at a going out of business sale held in  
21 compliance with Subchapter F, Chapter 17, Business & Commerce Code;  
22 or

23 (C) by a political subdivision of this state, a  
24 state agency, or an entity of the federal government;

25 (10) the contract is for services performed by persons  
26 who are blind or have severe disabilities;

27 (11) the contract is for the purchase of electricity;

1           (12) the contract is one for an authority project and  
2 awarded for alternate project delivery using the procedures,  
3 requirements, and limitations under Subchapters E, F, G, H, and I,  
4 Chapter 2269, Government Code; or

5           (13) the contract is for fare enforcement officer  
6 services under Section 460.1092.

7           SECTION 2.13. Sections 503.024(b) and (d), Transportation  
8 Code, are amended to read as follows:

9           (b) For the purposes of Section 503.021, a person is not  
10 engaging in business as a dealer by:

11           (1) selling or offering to sell, if the sale or offer  
12 is not made to avoid a requirement of this chapter, a vehicle the  
13 person acquired for personal or business use to:

14                   (A) a person other than a retail buyer if not sold  
15 or offered through an [~~a licensed~~] auctioneer; or

16                   (B) any person if the sale or offer is made  
17 through an [~~a licensed~~] auctioneer;

18           (2) selling, in a manner provided by law for the forced  
19 sale of vehicles, a vehicle in which the person holds a security  
20 interest;

21           (3) acting under a court order as a receiver, trustee,  
22 administrator, executor, guardian, or other appointed person;

23           (4) selling a vehicle the person acquired from the  
24 vehicle's owner as a result of paying an insurance claim if the  
25 person is an insurance company;

26           (5) selling an antique passenger car or truck that is  
27 at least 25 years of age; or

1           (6) selling a special interest vehicle that is at  
2 least 12 years of age if the person is a collector.

3           (d) For the purposes of Section 503.021, an [~~a licensed~~  
4 auctioneer is not engaging in business as a dealer by, as a bid  
5 caller, selling or offering to sell property, including a business  
6 that holds the title to any number of vehicles, to the highest  
7 bidder at a bona fide auction if:

8           (1) legal or equitable title does not pass to the  
9 auctioneer;

10           (2) the auction is not held to avoid a requirement of  
11 this chapter; and

12           (3) for an auction of vehicles owned legally or  
13 equitably by a person who holds a general distinguishing number,  
14 the auction is conducted at the location for which the general  
15 distinguishing number was issued.

16           SECTION 2.14. On the effective date of this Act:

17           (1) the Polygraph Advisory Committee is abolished;

18           (2) the Auctioneer Advisory Board is abolished; and

19           (3) money in the auctioneer education and recovery  
20 fund is transferred to the general revenue fund.

21           SECTION 2.15. On the effective date of this Act, a pending  
22 regulatory action, including a complaint investigation,  
23 disciplinary action, or administrative penalty proceeding, of the  
24 Texas Department of Licensing and Regulation with respect to a  
25 license, permit, or certification issued under a law repealed by  
26 this article, is terminated.

27           SECTION 2.16. On the effective date of this Act, a license,

1 permit, or certification issued under a law repealed by this  
2 article expires.

3 ARTICLE 3. BARBERING AND COSMETOLOGY

4 SECTION 3.01. Section 1603.001, Occupations Code, is  
5 amended to read as follows:

6 Sec. 1603.001. GENERAL DEFINITIONS. [~~(a)~~] In this  
7 chapter:

8 (1) "Advisory board" means the Barbering and  
9 Cosmetology Advisory Board.

10 (2) "Commission" means the Texas Commission of  
11 Licensing and Regulation.

12 (3) [~~(2)~~] "Department" means the Texas Department of  
13 Licensing and Regulation.

14 (4) "Establishment" means a place that holds a license  
15 issued under Subchapter E-2 in which barbering or cosmetology is  
16 practiced.

17 (5) [~~(3)~~] "Executive director" means the executive  
18 director of the department.

19 (6) "Manager" means the person who controls or directs  
20 the business of an establishment or directs the work of a person  
21 employed in an establishment.

22 (7) "School" means a place that holds a license issued  
23 under Subchapter E-3 to teach barbering or cosmetology.

24 [~~(b) Unless the context clearly indicates otherwise, the~~  
25 ~~definitions in Chapters 1601 and 1602 apply to this chapter.]~~

26 SECTION 3.02. Subchapter A, Chapter 1603, Occupations Code,  
27 is amended by adding Sections 1603.0011, 1603.0012, 1603.0013, and

1 1603.0014 to read as follows:

2 Sec. 1603.0011. DEFINITION OF BARBERING. In this chapter,  
3 "barbering" means:

4 (1) the practice of performing or offering or  
5 attempting to perform for compensation or the promise of  
6 compensation any of the following services:

7 (A) treating a person's mustache or beard by  
8 arranging, beautifying, coloring, processing, shaving, styling, or  
9 trimming;

10 (B) treating a person's hair by:

11 (i) arranging, beautifying, bleaching,  
12 cleansing, coloring, curling, dressing, dyeing, processing,  
13 shaping, singeing, straightening, styling, tinting, or waving;

14 (ii) providing a necessary service that is  
15 preparatory or ancillary to a service under Subparagraph (i),  
16 including bobbing, clipping, cutting, or trimming; or

17 (iii) cutting the person's hair as a  
18 separate and independent service for which a charge is directly or  
19 indirectly made separately from a charge for any other service;

20 (C) cleansing, stimulating, or massaging a  
21 person's scalp, face, neck, arms, or shoulders:

22 (i) by hand or by using a device, apparatus,  
23 or appliance; and

24 (ii) with or without the use of any cosmetic  
25 preparation, antiseptic, tonic, lotion, or cream;

26 (D) beautifying a person's face, neck, arms, or  
27 shoulders using a cosmetic preparation, antiseptic, tonic, lotion,

1 powder, oil, clay, cream, or appliance;

2 (E) treating a person's nails by:

3 (i) cutting, trimming, polishing, tinting,  
4 coloring, cleansing, manicuring, or pedicuring; or

5 (ii) attaching false nails;

6 (F) massaging, cleansing, treating, or  
7 beautifying a person's hands;

8 (G) administering facial treatments; or

9 (H) weaving a person's hair by using any method  
10 to attach commercial hair to a person's hair or scalp;

11 (2) advertising or representing to the public in any  
12 manner that a person is a barber or is authorized to practice  
13 barbering; or

14 (3) advertising or representing to the public in any  
15 manner that a location or place of business is an establishment or  
16 school.

17 Sec. 1603.0012. DEFINITION OF COSMETOLOGY. (a) In this  
18 chapter, "cosmetology" means the practice of performing or offering  
19 to perform for compensation any of the following services:

20 (1) treating a person's hair by:

21 (A) providing any method of treatment as a  
22 primary service, including arranging, beautifying, bleaching,  
23 cleansing, coloring, cutting, dressing, dyeing, processing,  
24 shaping, singeing, straightening, styling, tinting, or waving;

25 (B) providing a necessary service that is  
26 preparatory or ancillary to a service under Paragraph (A),  
27 including bobbing, clipping, cutting, or trimming a person's hair

1 or shaving a person's neck with a safety razor; or

2 (C) cutting the person's hair as a separate and  
3 independent service for which a charge is directly or indirectly  
4 made separately from charges for any other service;

5 (2) treating a person's mustache or beard by  
6 arranging, beautifying, coloring, processing, styling, trimming,  
7 or shaving with a safety razor;

8 (3) cleansing, stimulating, or massaging a person's  
9 scalp, face, neck, or arms:

10 (A) by hand or by using a device, apparatus, or  
11 appliance; and

12 (B) with or without the use of any cosmetic  
13 preparation, antiseptic, tonic, lotion, or cream;

14 (4) beautifying a person's face, neck, or arms using a  
15 cosmetic preparation, antiseptic, tonic, lotion, powder, oil,  
16 clay, cream, or appliance;

17 (5) administering facial treatments;

18 (6) removing superfluous hair from a person's body  
19 using depilatories, preparations or chemicals, tweezers, or other  
20 devices or appliances of any kind or description;

21 (7) treating a person's nails by:

22 (A) cutting, trimming, polishing, tinting,  
23 coloring, cleansing, or manicuring; or

24 (B) attaching false nails;

25 (8) massaging, cleansing, treating, or beautifying a  
26 person's hands or feet;

27 (9) applying semipermanent, thread-like extensions

1 composed of single fibers to a person's eyelashes; or

2 (10) weaving a person's hair.

3 (b) In this section, "safety razor" means a razor that is  
4 fitted with a guard close to the cutting edge of the razor that is  
5 intended to:

6 (1) prevent the razor from cutting too deeply; and

7 (2) reduce the risk and incidence of accidental cuts.

8 Sec. 1603.0013. SERVICES NOT CONSTITUTING BARBERING OR  
9 COSMETOLOGY. Barbering and cosmetology do not include:

10 (1) threading, which involves removing unwanted hair  
11 from a person by using a piece of thread that is looped around the  
12 hair and pulled to remove the hair and includes the incidental  
13 trimming of eyebrow hair; or

14 (2) servicing a person's wig, toupee, or artificial  
15 hairpiece on a person's head or on a block after the initial retail  
16 sale in any manner described by:

17 (A) Section 1603.0011(1)(B); or

18 (B) Section 1603.0012(a)(1).

19 Sec. 1603.0014. APPLICATION OF CHAPTER. This chapter does  
20 not apply to a person who:

21 (1) does not represent or advertise to the public  
22 directly or indirectly that the person is authorized by the  
23 department to practice barbering or cosmetology and the person is:

24 (A) licensed in this state to practice medicine,  
25 dentistry, podiatry, chiropractic, or nursing and operating within  
26 the scope of the person's license;

27 (B) a commissioned or authorized medical or

1 surgical officer of the United States armed forces; or  
2 (C) an inmate in the institutional division of  
3 the Texas Department of Criminal Justice who performs barbering or  
4 cosmetology during the person's incarceration;  
5 (2) provides a service in an emergency;  
6 (3) is in the business of or receives compensation for  
7 makeup applications only;  
8 (4) provides a cosmetic service as a volunteer or an  
9 employee performing regular duties at a licensed nursing or  
10 convalescent custodial or personal care home to a patient residing  
11 in the home;  
12 (5) owns, operates, or manages a licensed nursing or  
13 convalescent custodial or personal care home that allows a person  
14 with an operator license to perform cosmetic services for patients  
15 residing in the home on an occasional but not daily basis;  
16 (6) provides an incidental cosmetic service, or owns,  
17 operates, or manages the location where that service is provided,  
18 if the primary purpose of the service is to enable or assist the  
19 recipient of the service to participate as the subject of:  
20 (A) a photographic sitting at a permanent  
21 establishment that charges a fee exclusively for a photographic  
22 sitting;  
23 (B) a television appearance; or  
24 (C) the filming of a motion picture; or  
25 (7) performs only natural hair braiding, including  
26 braiding a person's hair, trimming hair extensions only as  
27 applicable to the braiding process, and attaching commercial hair

1 by braiding and without the use of chemicals or adhesives.

2 SECTION 3.03. Section 1603.002, Occupations Code, is  
3 amended to read as follows:

4 Sec. 1603.002. REGULATION OF BARBERING AND COSMETOLOGY BY  
5 DEPARTMENT OF LICENSING AND REGULATION. The department shall  
6 administer this chapter [~~and Chapters 1601 and 1602. A reference~~  
7 ~~in this chapter to the commission's or department's powers or duties~~  
8 ~~applies only in relation to those chapters, except that this~~  
9 ~~section does not limit the department's or commission's general~~  
10 ~~powers under Chapter 51].~~

11 SECTION 3.04. Subchapter B, Chapter 1603, Occupations Code,  
12 is amended to read as follows:

13 SUBCHAPTER B. [~~ADVISORY BOARDS FOR~~] BARBERING AND COSMETOLOGY

14 ADVISORY BOARD

15 Sec. 1603.051. ADVISORY BOARD; MEMBERSHIP. The Barbering  
16 and Cosmetology Advisory Board consists of nine members appointed  
17 by the presiding officer of the commission, with the commission's  
18 approval, as follows:

19 (1) four members who each hold an individual  
20 practitioner license under Subchapter E-1, including:

21 (A) at least one holder of a Class A barber  
22 license; and

23 (B) at least one holder of a cosmetology operator  
24 license;

25 (2) two members who each hold an establishment  
26 license;

27 (3) two members who each hold a school license; and

1           (4) one member who represents the public.

2           Sec. 1603.052. DUTIES OF ADVISORY BOARD. (a) The advisory  
3 board [~~boards established under Chapters 1601 and 1602~~] shall  
4 advise the commission and the department on:

5           (1) education and curricula for applicants;

6           (2) the content of examinations;

7           (3) proposed rules and standards on technical issues  
8 related to barbering and cosmetology; and

9           (4) other issues affecting [~~administering this~~  
10 ~~chapter and Chapters 1601 and 1602 regarding~~] barbering and [~~or~~]  
11 cosmetology [~~, as applicable~~].

12           (b) The advisory board shall respond to questions from the  
13 commission and the department regarding barbering and cosmetology.

14           Sec. 1603.053. TERMS; VACANCY. (a) Members of the  
15 advisory board serve staggered six-year terms, with the terms of  
16 three members expiring January 31 of each odd-numbered year.

17           (b) If a vacancy occurs during a member's term, the  
18 presiding officer of the commission, with the commission's  
19 approval, shall appoint a replacement to fill the unexpired term.

20           Sec. 1603.054. PRESIDING OFFICER; TERM. (a) Subject to  
21 Subsection (b), the presiding officer of the commission shall  
22 designate a member of the advisory board to serve as the presiding  
23 officer of the advisory board for a two-year term.

24           (b) The presiding officer of the commission shall designate  
25 each member of the advisory board who represents the public to serve  
26 as the presiding officer of the advisory board for at least one  
27 term.

1 SECTION 3.05. Section 1603.101, Occupations Code, is  
2 amended to read as follows:

3 Sec. 1603.101. RULES. The commission shall adopt rules  
4 consistent with this chapter for[+]

5 [~~(1)~~] the administration of this chapter and the  
6 operations of the department in regulating barbering and  
7 cosmetology[~~, and~~

8 [~~(2) the administration of Chapters 1601 and 1602~~].

9 SECTION 3.06. Section 1603.103(a), Occupations Code, is  
10 amended to read as follows:

11 (a) Until the department determines, by inspection, that  
12 the person has established the school in compliance with this  
13 chapter, [~~Chapter 1601, or Chapter 1602,~~] a person may not operate a  
14 school licensed [~~or permitted~~] under this chapter[~~, Chapter 1601,~~  
15 ~~or Chapter 1602~~].

16 SECTION 3.07. Sections 1603.104(a) and (d), Occupations  
17 Code, are amended to read as follows:

18 (a) The department may enter and inspect at any time during  
19 business hours:

20 (1) the place of business of any person regulated  
21 under this chapter[~~, Chapter 1601, or Chapter 1602~~]; or

22 (2) any place in which the department has reasonable  
23 cause to believe that a [~~certificate,~~] license[~~,~~] or permit holder  
24 is practicing in violation of this chapter[~~, Chapter 1601, or~~  
25 ~~Chapter 1602~~] or in violation of a rule or order of the commission  
26 or executive director.

27 (d) An inspector who discovers a violation of this chapter[~~,~~

1 ~~Chapter 1601, or Chapter 1602]~~ or of a rule or order of the  
2 commission or executive director shall:

3 (1) provide written notice of the violation to the  
4 license~~[, certificate,]~~ or permit holder on a form prescribed by  
5 the department; and

6 (2) file a complaint with the executive director.

7 SECTION 3.08. Section 1603.1045, Occupations Code, is  
8 amended to read as follows:

9 Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The  
10 department may contract with a person to perform for the department  
11 inspections of a school or establishment ~~[, shop, or other facility~~  
12 ~~under this chapter, Chapter 1601, or Chapter 1602]~~.

13 SECTION 3.09. Subchapter C, Chapter 1603, Occupations Code,  
14 is amended by adding Section 1603.106 to read as follows:

15 Sec. 1603.106. CERTAIN BUILDING AND FACILITY STANDARDS  
16 PROHIBITED. The commission may not establish building or facility  
17 standards for a school that are not related to health and safety,  
18 including a requirement that a building or facility of the school  
19 have a specific:

20 (1) square footage of floor space;

21 (2) number of chairs; or

22 (3) number of sinks.

23 SECTION 3.10. Section 1603.151, Occupations Code, is  
24 amended to read as follows:

25 Sec. 1603.151. NOTIFICATION OF PUBLIC INTEREST INFORMATION  
26 AND PARTICIPATION. The commission by rule shall establish methods  
27 by which consumers and service recipients are notified of the name,

1 mailing address, and telephone number of the department for the  
2 purpose of directing complaints to the department regarding  
3 barbering and cosmetology. The department may provide for that  
4 notice:

5 (1) on each registration form, application, or written  
6 contract for services of a person regulated under this chapter[~~7~~  
7 ~~Chapter 1601, or Chapter 1602~~];

8 (2) on a sign prominently displayed in the place of  
9 business of each person regulated under this chapter[~~7~~, ~~Chapter~~  
10 ~~1601, or Chapter 1602~~]; or

11 (3) in a bill for service provided by a person  
12 regulated under this chapter[~~7~~, ~~Chapter 1601, or Chapter 1602~~].

13 SECTION 3.11. The heading to Subchapter E, Chapter 1603,  
14 Occupations Code, is amended to read as follows:

15 SUBCHAPTER E. GENERAL [~~CERTIFICATE~~] LICENSE[~~7~~] AND PERMIT  
16 PROVISIONS [~~REQUIREMENTS~~]

17 SECTION 3.12. Subchapter E, Chapter 1603, Occupations Code,  
18 is amended by adding Section 1603.2001 to read as follows:

19 Sec. 1603.2001. RULES FOR ISSUANCE OF LICENSE OR PERMIT.

20 (a) The commission by rule shall establish requirements for the  
21 issuance of:

22 (1) a license for an individual practitioner,  
23 establishment, or school; and

24 (2) a student permit.

25 (b) A requirement established for the issuance of a license  
26 must be the least restrictive requirement possible to ensure public  
27 safety without creating a barrier to entry into the licensed

1 occupation.

2 (c) Requirements established under this section:

3 (1) for an individual practitioner specialty license  
4 may not be more stringent than requirements for a Class A barber  
5 license or a cosmetology operator license; and

6 (2) for a specialty establishment license may not be  
7 more stringent than requirements for an establishment license.

8 (d) The commission, as appropriate, shall establish  
9 standardized requirements within license categories.

10 SECTION 3.13. Sections 1603.201 and 1603.202, Occupations  
11 Code, are amended to read as follows:

12 Sec. 1603.201. APPLICATION FORM. An application for a  
13 [~~certificate~~] license[~~7~~] or permit under this chapter must be made  
14 on a form prescribed [~~and provided~~] by the department.

15 Sec. 1603.202. DUPLICATE [~~CERTIFICATE~~] LICENSE[~~7~~] OR  
16 PERMIT. The department shall issue a duplicate [~~certificate~~]  
17 license[~~7~~] or permit to an applicant who:

18 (1) submits an application for a duplicate  
19 [~~certificate~~] license[~~7~~] or permit to the department; and

20 (2) pays the required fee.

21 SECTION 3.14. Subchapter E, Chapter 1603, Occupations Code,  
22 is amended by adding Section 1603.2025 to read as follows:

23 Sec. 1603.2025. TEMPORARY LICENSE. (a) The department may  
24 issue a temporary license.

25 (b) The commission by rule may establish requirements for  
26 the issuance of a temporary license.

27 (c) A temporary license expires on the 60th day after the

1 date the license is issued. A temporary license may not be renewed.

2 SECTION 3.15. Sections 1603.203 and 1603.204, Occupations  
3 Code, are amended to read as follows:

4 Sec. 1603.203. PROVISIONAL [~~CERTIFICATE OR~~] LICENSE. (a)  
5 The department may issue a provisional [~~certificate or~~] license to  
6 an applicant currently licensed in another jurisdiction who seeks a  
7 [~~certificate or~~] license in this state and who:

8 (1) has been licensed in good standing in the  
9 profession for which the person seeks the [~~certificate or~~] license  
10 for at least two years in another jurisdiction, including a foreign  
11 country, that has requirements substantially equivalent to the  
12 requirements of this chapter [~~, Chapter 1601, or Chapter 1602, as~~  
13 ~~appropriate~~]; and

14 (2) has passed a national or other examination  
15 recognized by the commission relating to the practice of that  
16 profession.

17 (b) A provisional [~~certificate or~~] license is valid until  
18 the date the department approves or denies the provisional  
19 [~~certificate or~~] license holder's application. The department  
20 shall issue a [~~certificate or~~] license to the provisional  
21 [~~certificate or~~] license holder if:

22 (1) the provisional [~~certificate or~~] license holder is  
23 eligible to hold a [~~certificate or~~] license under this chapter  
24 [~~Chapter 1601 or Chapter 1602~~]; or

25 (2) the provisional [~~certificate or~~] license holder  
26 passes the part of the examination [~~under Chapter 1601 or Chapter~~  
27 ~~1602~~] that relates to the applicant's knowledge and understanding

1 of the laws and rules relating to the practice of the profession in  
2 this state and:

3 (A) the department verifies that the provisional  
4 ~~[certificate or]~~ license holder meets the academic and experience  
5 requirements for the ~~[certificate or]~~ license; and

6 (B) the provisional ~~[certificate or]~~ license  
7 holder satisfies any other ~~[certificate or]~~ license requirements.

8 (c) The department must approve or deny a provisional  
9 ~~[certificate or]~~ license holder's application for a ~~[certificate~~  
10 ~~or]~~ license not later than the 180th day after the date the  
11 provisional ~~[certificate or]~~ license is issued. The department may  
12 extend the 180-day period if the results of an examination have not  
13 been received by the department before the end of that period.

14 Sec. 1603.204. RECIPROCAL ~~[CERTIFICATE,~~ LICENSE~~, OR~~  
15 ~~PERMIT]~~. (a) A person who holds a license~~, certificate, or~~  
16 ~~permit]~~ to practice barbering or cosmetology from another state or  
17 country that has standards or work experience requirements that are  
18 substantially equivalent to the requirements of this chapter ~~[~~  
19 ~~Chapter 1601, or Chapter 1602]~~ may apply for a license~~,~~   
20 ~~certificate, or permit]~~ to perform the same acts of barbering or  
21 cosmetology in this state that the person practiced in the other  
22 state or country.

23 (b) The person must:

24 (1) submit an application for the license~~,~~   
25 ~~certificate, or permit]~~ to the department; and

26 (2) pay fees in an amount prescribed by the  
27 commission, including any applicable license~~, certificate, or~~

1 ~~permit~~] fee.

2 (c) A person issued a license[~~, certificate, or permit~~]  
3 under this section:

4 (1) may perform the acts of barbering or cosmetology  
5 stated on the license[~~, certificate, or permit~~]; and

6 (2) is subject to the renewal procedures and fees  
7 provided in this chapter [~~, Chapter 1601, or Chapter 1602~~] for the  
8 performance of those acts of barbering or cosmetology.

9 SECTION 3.16. Subchapter **E**, Chapter 1603, Occupations Code,  
10 is amended by adding Sections 1603.2041 and 1603.2042 to read as  
11 follows:

12 Sec. 1603.2041. INACTIVE STATUS. (a) The holder of a  
13 license issued under this chapter may place the license on inactive  
14 status by:

15 (1) applying to the commission on a form prescribed by  
16 the commission not later than the 10th day before the date the  
17 license expires; and

18 (2) paying the required fee.

19 (b) The holder of a license that has been placed on inactive  
20 status under this section is not required to comply with any  
21 continuing education requirements established by the commission  
22 under this chapter.

23 (c) To maintain inactive status, the holder of a license  
24 must reapply for inactive status on or before the second  
25 anniversary of the date the status is granted by submitting the  
26 required form accompanied by the required renewal fee.

27 (d) The holder of a license to practice barbering or

1 cosmetology that has been placed on inactive status under this  
2 section may not perform or attempt to perform the practice of  
3 barbering or cosmetology.

4 (e) A person whose license is on inactive status under this  
5 section may return the person's license to active status by:

6 (1) applying to the commission for reinstatement of  
7 the license on the form prescribed by the commission;

8 (2) submitting written documentation that the person  
9 has completed any applicable continuing education requirements  
10 under this chapter within the preceding two years; and

11 (3) paying the required license fee.

12 Sec. 1603.2042. REINSTATEMENT OF EXPIRED LICENSE BY  
13 RETIREE. A license holder who retires from practice and whose  
14 license under Subchapter E-1 has been expired for more than five  
15 years may qualify for a new license by applying to the department  
16 and by:

17 (1) making a proper showing to the department,  
18 supported by a personal affidavit;

19 (2) paying the required examination fee;

20 (3) passing a satisfactory examination conducted by  
21 the department; and

22 (4) paying the fee for an original license.

23 SECTION 3.17. Sections [1603.208](#)(a)(2) and (3), Occupations  
24 Code, are amended to read as follows:

25 (2) "Digitally prearranged remote service" means a  
26 barbering or cosmetology service performed for compensation by a  
27 person holding a license[~~, certificate of registration, or permit~~]

1 under Subchapter E-1 [~~Chapter 1601 or 1602 or this chapter~~] that is:

2 (A) prearranged through a digital network; and

3 (B) performed at a location other than an  
4 establishment [~~a place of business that is~~] licensed [~~or permitted~~]  
5 under Subchapter E-2 [~~Chapter 1601 or 1602 or this chapter~~].

6 (3) "Remote service business" means a corporation,  
7 partnership, sole proprietorship, or other entity that, for  
8 compensation, enables a client to schedule a digitally prearranged  
9 remote service with a person holding a license[~~, certificate of~~  
10 ~~registration, or permit~~] under Subchapter E-1 [~~Chapter 1601 or 1602~~  
11 ~~or this chapter~~].

12 SECTION 3.18. Sections 1603.208(c), (d), (f), (g), and (i),  
13 Occupations Code, are amended to read as follows:

14 (c) Sections 1603.2108 and 1603.2109 [~~1601.453, 1601.455,~~  
15 ~~1602.251(c), and 1602.407~~] do not apply to a digitally prearranged  
16 remote service scheduled through a remote service business.

17 (d) A person who holds a license[~~, certificate of~~  
18 ~~registration, or permit~~] to practice barbering or cosmetology and  
19 who performs a digitally prearranged remote service shall:

20 (1) comply with this section and the rules adopted  
21 under this section; and

22 (2) practice within the scope of the person's  
23 license[~~, certificate of registration, or permit~~].

24 (f) Before a person licensed[~~, registered, or permitted~~] to  
25 practice barbering or cosmetology performs a digitally prearranged  
26 remote service for a client requesting the service, a remote  
27 service business must [~~shall~~] provide through the entity's digital

1 network:

2 (1) the following information regarding the person who  
3 will perform the service:

4 (A) the person's first and last name;

5 (B) the ~~[number of the]~~ person's license number ~~[7~~  
6 ~~certificate of registration, or permit, as applicable]~~; and

7 (C) a photograph of the person;

8 (2) the following information regarding the business:

9 (A) Internet website address; and

10 (B) telephone number; and

11 (3) the department's Internet website address and  
12 telephone number and notice that the client may contact the  
13 department to file a complaint against the business or person.

14 (g) Within a reasonable time after completion of a digitally  
15 prearranged remote service, the remote service business shall issue  
16 to the client who requested the service a receipt that includes:

17 (1) the date the service was provided;

18 (2) a description of the service;

19 (3) the first and last name of the person who performed  
20 the service;

21 (4) the ~~[number of the]~~ person's license number ~~[7~~  
22 ~~certificate of registration, or permit, as applicable]~~;

23 (5) the following information regarding the business:

24 (A) Internet website address; and

25 (B) telephone number; and

26 (6) the department's Internet website address and  
27 telephone number and notice that the client may contact the

1 department to file a complaint against the business or person.

2 (i) A remote service business shall terminate a person's  
3 access to the business's digital network if the business or  
4 department determines the person violated:

5 (1) this chapter; or

6 (2) a rule adopted under this chapter[+]

7 [~~(3) Chapter 1601 or 1602; or~~

8 [~~(4) a rule adopted under Chapter 1601 or 1602~~].

9 SECTION 3.19. Subchapter E, Chapter 1603, Occupations Code,  
10 is amended by adding Section 1603.209 to read as follows:

11 Sec. 1603.209. INFECTIOUS AND CONTAGIOUS DISEASES. (a) A  
12 person holding a license or permit issued under Subchapter E-1 may  
13 not perform any practice of barbering or cosmetology if the person  
14 knows the person is suffering from an infectious or contagious  
15 disease for which the person is not entitled to protection under the  
16 federal Americans with Disabilities Act of 1990 (42 U.S.C. Section  
17 12101 et seq.).

18 (b) A person holding an establishment or school license may  
19 not employ a person to perform any practice of barbering or  
20 cosmetology or to instruct in the practice of barbering or  
21 cosmetology if the license holder knows that the person is  
22 suffering from an infectious or contagious disease for which the  
23 person is not entitled to protection under the federal Americans  
24 with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

25 SECTION 3.20. Chapter 1603, Occupations Code, is amended by  
26 adding Subchapters E-1, E-2, and E-3 to read as follows:

27 SUBCHAPTER E-1. INDIVIDUAL PRACTITIONER LICENSES; STUDENT PERMIT;

PRACTICE

Sec. 1603.2101. LICENSE OR PERMIT REQUIRED; USE OF CERTAIN TERMS WITHOUT LICENSE PROHIBITED. (a) A person may not perform or offer or attempt to perform any act of barbering or cosmetology unless the person holds a license or permit issued under this subchapter to perform that act.

(b) Unless the person holds an appropriate license issued under this subchapter, a person may not directly or indirectly use or cause to be used as a professional or business identification, title, name, representation, asset, or means of advantage or benefit:

- (1) the term "barber" or "barbering";
- (2) the term "cosmetologist" or "cosmetology"; or
- (3) any combination, variation, or abbreviation of the terms listed in Subdivisions (1) and (2).

Sec. 1603.2102. ISSUANCE OF LICENSE. The department shall issue a license to an applicant who:

- (1) meets the applicable eligibility requirements;
- (2) passes the applicable examination;
- (3) pays the required fee;
- (4) has not committed an act that constitutes a ground for denial of the license; and
- (5) submits an application on a form prescribed by the department.

Sec. 1603.2103. INDIVIDUAL PRACTITIONER LICENSES. (a) A person holding:

- (1) a Class A barber license may perform any barbering

1 service;

2 (2) a cosmetology operator license may perform any  
3 cosmetology service;

4 (3) a manicurist license may perform any service  
5 described by Section 1603.0012(a)(7) or (8);

6 (4) an esthetician license may perform any service  
7 described by Section 1603.0012(a)(3), (4), (5), (6), or (9);

8 (5) a manicurist/esthetician license may perform any  
9 service described by Section 1603.0012(a)(3), (4), (5), (6), (7),  
10 (8), or (9);

11 (6) a hair weaving specialist license may perform any  
12 service described by Section 1603.0012(a)(10);

13 (7) a hair weaving specialist/esthetician license may  
14 perform any service described by Section 1603.0012(a)(3), (4), (5),  
15 (6), (9), or (10); and

16 (8) an eyelash extension specialist license may  
17 perform any service described by Section 1603.0012(a)(9).

18 (b) The commission by rule shall provide for the issuance  
19 of:

20 (1) a Class A barber license to a person who holds a  
21 cosmetology operator license; and

22 (2) a cosmetology operator license to a person who  
23 holds a Class A barber license.

24 Sec. 1603.2104. WAIVER OF CERTAIN LICENSE REQUIREMENTS.

25 (a) The department shall issue a license to an applicant for a  
26 Class A barber license described by Section 1603.2103(a)(1), a  
27 cosmetology operator license described by Section

1 1603.2103(a)(2), an esthetician license described by Section  
2 1603.2103(a)(4), a hair weaving specialist license described by  
3 Section 1603.2103(a)(6), or a hair weaving specialist/esthetician  
4 license described by Section 1603.2103(a)(7) if the applicant:

5 (1) submits an application on a form prescribed by the  
6 department;

7 (2) pays the application fee; and

8 (3) provides proof that the applicant holds a current  
9 license to engage in the same or a similar activity issued by  
10 another jurisdiction that has license requirements substantially  
11 equivalent to those of this state.

12 (b) The department may waive any requirement for a license  
13 issued under this subchapter, other than a license listed in  
14 Subsection (a), for an applicant holding a license from another  
15 state or country that has license requirements substantially  
16 equivalent to those of this state.

17 (c) The department may not require a personal interview as  
18 part of the application process under this section.

19 (d) A license issued under this section may be renewed as  
20 provided by Subchapter G.

21 Sec. 1603.2105. STUDENT PERMIT. (a) A student enrolled in  
22 a school licensed under Subchapter E-3 must hold a permit stating  
23 the student's name and the name of the school.

24 (b) The department shall issue a student permit to an  
25 applicant who submits an application to the department for a  
26 student permit accompanied by the required fee.

27 (c) A separate application is required for each enrollment,

1 reenrollment, or transfer enrollment. The application fee applies  
2 only to the first enrollment. The department may not charge the  
3 application fee for any later enrollment, reenrollment, or transfer  
4 enrollment.

5 Sec. 1603.2106. TRANSFER OF LICENSE OR PERMIT PROHIBITED.  
6 A license or permit issued under this subchapter is not  
7 transferable.

8 Sec. 1603.2107. DISPLAY OF LICENSE OR PERMIT. (a) The  
9 holder of a license issued under this subchapter shall display the  
10 original license and an attached photograph of the license holder  
11 in a conspicuous place near the license holder's work chair in the  
12 establishment in which the holder is working.

13 (b) The holder of a student permit issued under this  
14 subchapter shall display the permit in a reasonable manner at the  
15 school in which the permit holder is enrolled.

16 Sec. 1603.2108. LOCATION OF PRACTICE. A person holding a  
17 license or permit issued under this subchapter may practice  
18 barbering or cosmetology only at a licensed establishment or  
19 school.

20 Sec. 1603.2109. SERVICE AT UNLICENSED LOCATION. (a) In  
21 this section, "licensed facility" means:

- 22 (1) an establishment licensed under Subchapter E-2; or  
23 (2) a school licensed under Subchapter E-3.

24 (b) A person holding a license or permit under this  
25 subchapter may perform a service within the scope of the license or  
26 permit at a location other than a licensed facility for a client:

- 27 (1) who, because of illness or physical or mental

1 incapacitation, is unable to receive the service at a licensed  
2 facility; or

3 (2) in preparation for and at the location of a special  
4 event, including a wedding.

5 (c) An appointment for a service performed under this  
6 section must be made through a licensed facility.

7 SUBCHAPTER E-2. ESTABLISHMENT LICENSES; OPERATION

8 Sec. 1603.2201. LICENSE REQUIRED. (a) A person may not  
9 own, operate, or manage an establishment in which an act of  
10 barbering or cosmetology is practiced unless the person holds a  
11 license issued under this subchapter to operate the establishment.

12 (b) A person may not lease space on the premises of a  
13 licensed establishment to engage in the practice of barbering or  
14 cosmetology as an independent contractor unless the person holds a  
15 license issued under Subchapter E-1.

16 Sec. 1603.2202. ISSUANCE OF LICENSE. The department shall  
17 issue the applicable establishment license under this subchapter to  
18 an applicant if:

19 (1) the applicant:

20 (A) owns the establishment;

21 (B) verifies the application;

22 (C) complies with the application requirements  
23 of this chapter;

24 (D) pays the required inspection and license  
25 fees; and

26 (E) has not committed an act that constitutes a  
27 ground for denial of a license; and

1           (2) the establishment:

2                   (A) meets the commission's minimum health  
3 standards for an establishment; and

4                   (B) complies with all commission rules.

5           Sec. 1603.2203. ESTABLISHMENT LICENSES. (a) An  
6 establishment licensed as:

7                   (1) an establishment may provide any barbering or  
8 cosmetology service;

9                   (2) a manicurist specialty establishment may provide  
10 any service described by Section 1603.0012(a)(7) or (8);

11                   (3) an esthetician specialty establishment may  
12 provide any service described by Section 1603.0012(a)(3), (4), (5),  
13 (6), or (9);

14                   (4) a manicurist/esthetician specialty establishment  
15 may provide any service described by Section 1603.0012(a)(3), (4),  
16 (5), (6), (7), (8), or (9);

17                   (5) a hair weaving specialty establishment may provide  
18 any service described by Section 1603.0012(a)(10);

19                   (6) an eyelash extension specialty establishment may  
20 provide any service described by Section 1603.0012(a)(9);

21                   (7) a mini-establishment may provide any barbering or  
22 cosmetology service; and

23                   (8) a mobile establishment may provide any barbering  
24 or cosmetology service.

25           (b) In this section:

26                   (1) "Mini-establishment" includes a room or suite of  
27 rooms that is one of a number of connected establishments in a

1 single premises that open onto a common hallway or another  
2 configuration of operations as determined by commission rule in  
3 which a person practices under a license issued under Subchapter  
4 E-1.

5 (2) "Mobile establishment" means a facility that is  
6 readily movable and where barbering, cosmetology, or both are  
7 practiced other than at a fixed location.

8 Sec. 1603.2204. TRANSFER OF LICENSE PROHIBITED. A license  
9 issued under this subchapter is not transferable.

10 Sec. 1603.2205. USE OF ESTABLISHMENT AS SLEEPING QUARTERS  
11 PROHIBITED. (a) An owner or manager of a licensed establishment  
12 may not permit a person to sleep in a room used as part of the  
13 establishment.

14 (b) A person may not perform an act for which a license is  
15 required in a room in an establishment that is used as sleeping  
16 quarters.

17 SUBCHAPTER E-3. SCHOOL LICENSES; OPERATION

18 Sec. 1603.2301. LICENSE REQUIRED. A person may not operate  
19 a school for instruction in the practice of barbering or  
20 cosmetology unless the person holds a license issued under this  
21 subchapter to operate the school.

22 Sec. 1603.2302. ISSUANCE OF LICENSE. The department shall  
23 issue a license under this subchapter to an applicant who:

24 (1) submits an application on a form prescribed by the  
25 department;

26 (2) pays the required fee;

27 (3) provides to the department adequate proof of

1 financial responsibility; and

2 (4) satisfies any other requirements of this chapter  
3 or commission rule.

4 Sec. 1603.2303. SCHOOL LICENSES. The holder of a public  
5 secondary school license, private postsecondary school license, or  
6 public postsecondary school license may provide instruction in the  
7 barbering or cosmetology services for which the license holder has  
8 been approved by the department.

9 Sec. 1603.2304. CHANGE OF SCHOOL OWNERSHIP OR LOCATION.

10 (a) If a licensed school changes ownership, the outgoing owner  
11 shall notify the department of the change not later than the 10th  
12 day before the date the change takes effect.

13 (b) A licensed school under this subchapter may not change  
14 the location of the school unless the school obtains approval from  
15 the department before the change by showing that the proposed  
16 location meets the requirements of this chapter and commission  
17 rules.

18 Sec. 1603.2305. SIGNS REQUIRED. The holder of a school  
19 license shall:

20 (1) place a sign on the front outside portion of the  
21 school's building in a prominent place that reads in at least  
22 10-inch block letters: "SCHOOL--STUDENT PRACTITIONERS"; and

23 (2) prominently display printed signs containing the  
24 information required by Subdivision (1) on each inside wall of the  
25 school.

26 Sec. 1603.2306. INFORMATION PROVIDED TO PROSPECTIVE  
27 STUDENT. The holder of a school license shall provide to each

1 prospective student:

2 (1) a course outline;

3 (2) a schedule of the tuition and other fees assessed;

4 (3) the school's refund policy required under Section  
5 1603.3602;

6 (4) the school's grading policy and rules relating to  
7 incomplete grades;

8 (5) the school's rules of operation and conduct,  
9 including rules relating to absences;

10 (6) the department's name, mailing address, and  
11 telephone number for the purpose of directing complaints to the  
12 department; and

13 (7) the current job placement rates and employment  
14 rates of students who complete a course of instruction.

15 Sec. 1603.2307. COURSE LENGTH AND CURRICULUM CONTENT. (a)  
16 A licensed school shall design course length and curriculum content  
17 to reasonably ensure that a student develops the job skills and  
18 knowledge necessary for employment.

19 (b) A licensed school must submit to the commission for  
20 approval the course length and curriculum content for each course  
21 offered by the school. The school may not implement a course length  
22 and curriculum content without the approval of the commission.

23 (c) Before issuing or renewing a license under this  
24 subchapter, the department must require the school to account for  
25 each course length and curriculum content.

26 Sec. 1603.2308. REQUIRED COURSES. (a) A licensed school  
27 shall instruct students in the theory and practice of subjects

1 necessary and beneficial to the practice of barbering and  
2 cosmetology.

3 (b) The commission by rule shall establish the subjects in  
4 which students shall receive instruction.

5 Sec. 1603.2309. DAILY ATTENDANCE RECORDS. (a) A licensed  
6 school shall maintain an attendance book showing a record of the  
7 students' daily attendance.

8 (b) The department may inspect a school's attendance record  
9 book at any time.

10 Sec. 1603.2310. INSTRUCTOR-TO-STUDENT RATIO. A licensed  
11 school must have at least one instructor for every 25 students on  
12 the school's premises.

13 Sec. 1603.2311. REPORTS TO DEPARTMENT. (a) A licensed  
14 school shall maintain a monthly progress report regarding each  
15 student attending the school. The report must certify the daily  
16 attendance record of each student and the number of credit hours  
17 earned by each student during the previous month.

18 (b) On a student's completion of a prescribed course of  
19 instruction, the school shall notify the department that the  
20 student has completed the required number of hours and is eligible  
21 to take the appropriate examination.

22 (c) The holder of a school license shall provide to the  
23 department:

24 (1) the current course completion rates of students  
25 who attend a course of instruction offered by the school; and

26 (2) job placement rates and employment rates of  
27 students who complete a course of instruction.

1        Sec. 1603.2312. ADDITIONAL DUTIES OF LICENSE HOLDER. (a)

2        The holder of a school license shall:

3                (1) establish regular class and instruction hours and  
4        grades;

5                (2) hold examinations before issuing diplomas; and

6                (3) maintain a copy of the school's curriculum in a  
7        conspicuous place and verify that the curriculum is being followed.

8        (b) The holder of a school license may not require a student  
9        to work, be instructed, or earn credit for more than 48 hours in a  
10       calendar week.

11       Sec. 1603.2313. TRANSFER OF HOURS OF INSTRUCTION. (a) A  
12       student at a licensed school may transfer completed hours of  
13       instruction to another licensed school in this state.

14       (b) In order for the hours of instruction to be transferred,  
15       a transcript showing the completed courses and number of hours  
16       certified by the school in which the instruction was given must be  
17       submitted to the executive director.

18       (c) In evaluating a student's transcript, the executive  
19       director shall determine whether the agreed tuition has been paid.  
20       If the tuition has not been paid, the executive director shall  
21       notify the student that the student's transcript cannot be  
22       certified to the school to which the student seeks a transfer until  
23       proof is provided that the tuition has been paid.

24       (d) On evaluation and approval, the executive director  
25       shall certify in writing to the student and to the school to which  
26       the student seeks a transfer that:

27                (1) the stated courses and hours have been

1 successfully completed; and

2 (2) the student is not required to repeat the hours of  
3 instruction.

4 (e) If a school's license has been expired for more than 30  
5 days, a student of that school may not transfer hours of instruction  
6 the student completed at that school.

7 Sec. 1603.2314. IDENTIFICATION OF AND WORK PERFORMED BY  
8 STUDENT. (a) Each licensed school shall maintain in a conspicuous  
9 place a list of the names and identifying pictures of the students  
10 who are enrolled in the school's courses.

11 (b) A school may not receive compensation for work done by a  
12 student unless the student has completed 10 percent of the required  
13 number of hours for a license under Subchapter E-1.

14 (c) If a school violates this section, the license of the  
15 school may be revoked or suspended.

16 SECTION 3.21. Section 1603.252(b), Occupations Code, is  
17 amended to read as follows:

18 (b) The executive director shall determine uniform  
19 standards for acceptable performance on an examination for a  
20 license under Subchapter E-1 [~~or certificate under Chapter 1601 and~~  
21 ~~for a license or certificate under Chapter 1602~~].

22 SECTION 3.22. Sections 1603.253 and 1603.255, Occupations  
23 Code, are amended to read as follows:

24 Sec. 1603.253. WRITTEN EXAMINATION. The commission shall  
25 select an examination for each written examination required under  
26 this chapter [~~, Chapter 1601, or Chapter 1602~~]. The written  
27 examination must be:

- 1 (1) validated by an independent testing professional;  
2 or  
3 (2) purchased from a national testing service.

4 Sec. 1603.255. EARLY EXAMINATION. The commission by rule  
5 ~~[department]~~ may allow for the early written examination of a  
6 student ~~[who has completed the following number of hours of~~  
7 ~~instruction in a department-approved training program.~~

8 ~~[(1) 1,000 hours for a student seeking a Class A barber~~  
9 ~~certificate in a private barber school;~~

10 ~~[(2) 900 hours for a student seeking an operator~~  
11 ~~license in a private cosmetology school; or~~

12 ~~[(3) 900 hours for a student seeking a Class A barber~~  
13 ~~certificate or operator license in a publicly funded barber or~~  
14 ~~cosmetology school].~~

15 SECTION 3.23. Sections 1603.256(a) and (c), Occupations  
16 Code, are amended to read as follows:

17 (a) The commission may require a practical examination as it  
18 considers necessary for a license ~~[or certificate]~~ issued under  
19 Subchapter E-1 ~~[Chapter 1601 or 1602]~~.

20 (c) The following persons may administer a practical  
21 examination ~~[required under this subchapter]~~:

- 22 (1) the department;  
23 (2) a person with whom the department contracts under  
24 Section 1603.252;

25 (3) a licensed ~~[barber]~~ school~~[, private beauty~~  
26 ~~culture school, or a public secondary or postsecondary beauty~~  
27 ~~culture school]~~ that is approved by the department to administer

1 the examination under Section 1603.252; or

2 (4) the Windham School District.

3 SECTION 3.24. Subchapter G, Chapter 1603, Occupations Code,  
4 is amended to read as follows:

5 SUBCHAPTER G. [~~CERTIFICATE,~~] LICENSE [~~, AND PERMIT~~] RENEWAL

6 Sec. 1603.3001. LICENSE TERMS. (a) Except as provided by  
7 Subsection (b), a license other than a temporary license expires on  
8 the second anniversary of the date the license is issued.

9 (b) A school license expires on the first anniversary of the  
10 date the license is issued.

11 Sec. 1603.3002. RENEWAL RULES. (a) The commission by rule  
12 may establish requirements for the renewal of a license issued  
13 under this chapter, including continuing education requirements.

14 (b) The commission may establish separate requirements for:

15 (1) the initial renewal of a license; and

16 (2) subsequent renewals of a license.

17 (c) Before establishing continuing education requirements  
18 under this section, the commission must consider the potential  
19 impact of continuing education with respect to:

20 (1) identifying and assisting trafficked persons; and

21 (2) providing license holders with opportunities to  
22 acquire new skills.

23 Sec. 1603.3003. ISSUANCE OF RENEWAL LICENSE. The  
24 department shall issue a renewal license on receipt of:

25 (1) a renewal application in the form prescribed by  
26 the department; and

27 (2) a renewal fee in an amount equal to the original

1 license fee.

2 Sec. 1603.3004. RENEWAL WHILE IN ARMED FORCES. (a) The  
3 department may not require the holder of a Class A barber license  
4 described by Section 1603.2103(1), a cosmetology operator license  
5 described by Section 1603.2103(2), a manicurist license described  
6 by Section 1603.2103(3), an esthetician license described by  
7 Section 1603.2103(4), or a manicurist/esthetician license  
8 described by Section 1603.2103(5) who is serving on active duty in  
9 the United States armed forces to renew the person's license.

10 (b) The department shall issue a renewal license on  
11 application and payment of the required renewal fee not later than  
12 the 90th day after the date the person is released or discharged  
13 from active duty in the United States armed forces.

14 Sec. 1603.301. DENIAL OF RENEWAL DUE TO ADMINISTRATIVE  
15 PENALTY. The department may deny a person's request to renew a  
16 [~~certificate,~~] license[~~, or permit~~] issued under this chapter[~~,~~  
17 ~~Chapter 1601, or Chapter 1602~~] if the person has not paid an  
18 administrative penalty imposed under Subchapter F, Chapter  
19 51. This section does not apply if:

20 (1) the person's time to pay or request a hearing has  
21 not expired under Section 51.304;

22 (2) the person has requested a hearing under Section  
23 51.304, but the person's time to pay has not expired under Section  
24 51.307; or

25 (3) the penalty is stayed.

26 SECTION 3.25. The heading to Subchapter H, Chapter 1603,  
27 Occupations Code, is amended to read as follows:

1 SUBCHAPTER H. PRACTICE PROVISIONS APPLICABLE TO MORE THAN ONE  
2 LICENSE TYPE [~~CHAPTERS 1601 AND 1602~~]

3 SECTION 3.26. Section 1603.351, Occupations Code, is  
4 amended to read as follows:

5 Sec. 1603.351. MINIMUM CURRICULUM FOR SCHOOLS; DISTANCE  
6 EDUCATION. (a) The commission shall prescribe the minimum  
7 curriculum, including the subjects and the number of hours in each  
8 subject, taught by a licensed school [~~licensed under this chapter,~~  
9 ~~Chapter 1601, or Chapter 1602~~].

10 (a-1) Notwithstanding any other law, the commission may  
11 adopt rules to:

12 (1) authorize a licensed school [~~licensed under this~~  
13 ~~chapter, Chapter 1601, or Chapter 1602~~] to account for any hours of  
14 instruction completed under this chapter [~~those chapters~~] on the  
15 basis of clock hours or credit hours; and

16 (2) establish standards for determining the  
17 equivalency and conversion of clock hours to credit hours and  
18 credit hours to clock hours.

19 (b) The commission may adopt rules allowing distance  
20 education only for the theory portion of the curriculum taught by a  
21 licensed school [~~licensed under this chapter, Chapter 1601, or~~  
22 ~~Chapter 1602~~].

23 (c) Distance education does not satisfy the requirements of  
24 the practical portion of the curriculum taught by a licensed school  
25 [~~licensed under this chapter, Chapter 1601, or Chapter 1602~~].

26 SECTION 3.27. Sections 1603.352(a) and (b), Occupations  
27 Code, are amended to read as follows:

1 (a) A person who holds a license~~[, certificate,]~~ or permit  
 2 issued under this chapter~~[, Chapter 1601, or Chapter 1602]~~ and who  
 3 performs a ~~[barbering service described by Section 1601.002(1)(E)~~  
 4 ~~or (F) or a cosmetology]~~ service described by Section  
 5 1603.0012(a)(7) or (8) ~~[1602.002(a)(8) or (9)]~~ shall, before  
 6 performing the service, clean, disinfect, and sterilize with an  
 7 autoclave or dry heat sterilizer or sanitize with an ultraviolet  
 8 sanitizer, in accordance with the sterilizer or sanitizer  
 9 manufacturer's instructions, each metal instrument, including  
 10 metal nail clippers, cuticle pushers, cuticle nippers, and other  
 11 metal instruments, used to perform the service.

12 (b) The owner or manager of a licensed establishment or  
 13 ~~[barber shop, barber] school[, beauty shop, specialty shop, beauty~~  
 14 ~~culture school, or other facility licensed under this chapter,~~  
 15 ~~Chapter 1601, or Chapter 1602,]~~ is responsible for providing an  
 16 autoclave, a dry heat sterilizer, or an ultraviolet sanitizer for  
 17 use in the establishment ~~[shop]~~ or school as required by Subsection  
 18 (a).

19 SECTION 3.28. Subchapter H, Chapter 1603, Occupations Code,  
 20 is amended by adding Sections 1603.353, 1603.354, 1603.355,  
 21 1603.356, 1603.357, and 1603.358 to read as follows:

22 Sec. 1603.353. EMPLOYMENT OF LICENSE HOLDER. (a) A  
 23 licensed school may not employ a person holding a license issued  
 24 under Subchapter E-1 solely to perform the practices of barbering  
 25 or cosmetology for which the person is licensed.

26 (b) A person holding a license for an establishment may not  
 27 employ or lease to a person to practice barbering or cosmetology at

1 the establishment unless the person holds a license issued under  
2 Subchapter E-1.

3 Sec. 1603.354. NECESSARY EQUIPMENT. The owner, operator,  
4 or manager of a licensed establishment or school shall equip the  
5 establishment or school with the facilities, supplies, appliances,  
6 furnishings, and materials necessary to enable a person employed on  
7 the premises to comply with this chapter.

8 Sec. 1603.355. DISPLAY OF LICENSE. A licensed school or  
9 establishment shall display the license in a conspicuous place in  
10 the school or establishment for which the license is issued.

11 Sec. 1603.356. DISPLAY OF HUMAN TRAFFICKING INFORMATION.

12 (a) A licensed school or establishment shall display a sign  
13 approved by or acceptable to the commission or the department  
14 concerning services and assistance available to victims of human  
15 trafficking.

16 (b) The sign required by this section must:

17 (1) be in English, Spanish, and Vietnamese; and

18 (2) include a toll-free telephone number of a  
19 nationally recognized information and referral hotline for victims  
20 of human trafficking.

21 (c) The commission by rule shall establish requirements  
22 regarding the posting of signs under this section.

23 Sec. 1603.357. DISPLAY OF SANITATION RULES. A licensed  
24 school or establishment shall display a copy of the commission's  
25 sanitation rules.

26 Sec. 1603.358. OPERATION OF ESTABLISHMENT AND SCHOOL ON  
27 SINGLE PREMISES. A person may not operate an establishment or

1 school on the same premises as another one of those facilities  
2 unless the facilities are separated by walls of permanent  
3 construction without an opening between the facilities.

4 SECTION 3.29. Chapter 1603, Occupations Code, is amended by  
5 adding Subchapter H-1 to read as follows:

6 SUBCHAPTER H-1. FINANCIAL PROVISIONS APPLICABLE TO PRIVATE

7 POSTSECONDARY SCHOOLS

8 Sec. 1603.3601. CANCELLATION AND SETTLEMENT POLICY. The  
9 holder of a private postsecondary school license shall maintain a  
10 cancellation and settlement policy that provides a full refund of  
11 money paid by a student if the student:

12 (1) cancels the enrollment agreement or contract not  
13 later than midnight of the third day after the date the agreement or  
14 contract is signed by the student, excluding Saturdays, Sundays,  
15 and legal holidays; or

16 (2) entered into the enrollment agreement or contract  
17 because of a misrepresentation made:

18 (A) in the advertising or promotional materials  
19 of the school; or

20 (B) by an owner or representative of the school.

21 Sec. 1603.3602. REFUND POLICY. (a) The holder of a private  
22 postsecondary school license shall maintain a refund policy to  
23 provide for the refund of any unused parts of tuition, fees, and  
24 other charges paid by a student who, at the expiration of the  
25 cancellation period established under Section 1603.3601:

26 (1) fails to enter the course of training;

27 (2) withdraws from the course of training; or

1           (3) is terminated from the course of training before  
2 completion of the course.

3           (b) The refund policy must provide that:

4           (1) the refund is based on the period of the student's  
5 enrollment, computed on the basis of course time expressed in  
6 scheduled hours, as specified by an enrollment agreement, contract,  
7 or other document acceptable to the department;

8           (2) the effective date of the termination for refund  
9 purposes is the earliest of:

10           (A) the last date of attendance, if the student  
11 is terminated by the school;

12           (B) the date the license holder receives the  
13 student's written notice of withdrawal; or

14           (C) 10 school days after the last date of  
15 attendance; and

16           (3) the school may retain not more than \$100 if:

17           (A) tuition is collected before the course of  
18 training begins; and

19           (B) the student fails to withdraw from the course  
20 of training before the cancellation period expires.

21           Sec. 1603.3603. WITHDRAWAL OR TERMINATION OF STUDENT. (a)  
22 If a student at a private postsecondary school begins a course of  
23 training that is scheduled to run not more than 12 months and,  
24 during the last 50 percent of the course, withdraws from the course  
25 or is terminated by the school, the school:

26           (1) may retain 100 percent of the tuition and fees paid  
27 by the student; and

1           (2) is not obligated to refund any additional  
2 outstanding tuition.

3           (b) If a student at a private postsecondary school begins a  
4 course of training that is scheduled to run not more than 12 months  
5 and, before the last 50 percent of the course, withdraws from the  
6 course or is terminated by the school, the school shall refund:

7           (1) 90 percent of any outstanding tuition for a  
8 withdrawal or termination that occurs during the first week or  
9 first 10 percent of the course, whichever period is shorter;

10           (2) 80 percent of any outstanding tuition for a  
11 withdrawal or termination that occurs after the first week or first  
12 10 percent of the course, whichever period is shorter, but within  
13 the first three weeks of the course;

14           (3) 75 percent of any outstanding tuition for a  
15 withdrawal or termination that occurs after the first three weeks  
16 of the course but not later than the completion of the first 25  
17 percent of the course; and

18           (4) 50 percent of any outstanding tuition for a  
19 withdrawal or termination that occurs not later than the completion  
20 of the first 50 percent of the course.

21           (c) A refund owed under this section must be paid not later  
22 than the 30th day after the date the student becomes eligible for  
23 the refund.

24           Sec. 1603.3604. INTEREST ON REFUND. (a) If tuition is not  
25 refunded within the period required by Section 1603.3603, the  
26 private postsecondary school shall pay interest on the amount of  
27 the refund for the period beginning the first day after the date the

1 refund period expires and ending the day preceding the date the  
2 refund is made.

3 (b) If tuition is refunded to a lending institution, the  
4 interest shall be paid to that institution and applied against the  
5 student's loan.

6 (c) The commissioner of education shall annually set the  
7 interest rate at a rate sufficient to deter a school from retaining  
8 money paid by a student.

9 (d) The department may exempt a school from the payment of  
10 interest if the school makes a good faith effort to refund the  
11 tuition but is unable to locate the student. The school shall  
12 provide to the department on request documentation of the effort to  
13 locate the student.

14 Sec. 1603.3605. REENTRY OF STUDENT AFTER WITHDRAWAL. If a  
15 student voluntarily withdraws or is terminated after completing 50  
16 percent of the course at a private postsecondary school, the school  
17 shall allow the student to reenter at any time during the 48-month  
18 period following the date of withdrawal or termination.

19 Sec. 1603.3606. EFFECT OF STUDENT WITHDRAWAL. (a) A  
20 private postsecondary school shall record a grade of incomplete for  
21 a student who withdraws but is not entitled to a refund under  
22 Section 1603.3603 if the student:

23 (1) requests the grade at the time the student  
24 withdraws; and

25 (2) withdraws for an appropriate reason unrelated to  
26 the student's academic status.

27 (b) A student who receives a grade of incomplete may

1 reenroll in the program during the 48-month period following the  
2 date the student withdraws and complete the subjects without  
3 payment of additional tuition.

4 Sec. 1603.3607. EFFECT OF PRIVATE POSTSECONDARY SCHOOL  
5 CLOSURE. (a) If a private postsecondary school closes, the  
6 department shall attempt to arrange for students enrolled in the  
7 closed school to attend another private postsecondary school.

8 (b) If a student from a closed school is placed in another  
9 private postsecondary school, the expense incurred by the school in  
10 providing training directly related to educating the student,  
11 including the applicable tuition for the period for which the  
12 student paid tuition, shall be paid from the barbering and  
13 cosmetology school tuition protection account.

14 (c) If a student from a closed private postsecondary school  
15 cannot be placed in another private postsecondary school, the  
16 student's tuition and fees shall be refunded as provided by Section  
17 1603.3602. If a student from a closed private postsecondary school  
18 does not accept a place that is available and reasonable in another  
19 private postsecondary school, the student's tuition and fees shall  
20 be refunded as provided by Section 1603.3603. A refund under this  
21 subsection shall be paid from the barbering and cosmetology school  
22 tuition protection account. The amount of the refund may not exceed  
23 \$35,000.

24 (d) If another private postsecondary school assumes  
25 responsibility for the closed school's students and there are no  
26 significant changes in the quality of the training, the student  
27 from the closed school is not entitled to a refund under Subsection

1 (c).

2 Sec. 1603.3608. BARBERING AND COSMETOLOGY SCHOOL TUITION  
3 PROTECTION ACCOUNT. (a) If on January 1 of any year the amount in  
4 the barbering and cosmetology school tuition protection account is  
5 less than \$225,000, the department shall collect a fee from each  
6 private postsecondary school during that year by applying a  
7 percentage to the school's renewal fee at a rate that will bring the  
8 balance of the account to \$225,000.

9 (b) The department shall administer claims made against the  
10 account.

11 (c) The comptroller shall invest the account in the same  
12 manner as other state funds.

13 (d) Sufficient money from the account shall be appropriated  
14 to the department for the purpose described by Section 1603.3607.

15 (e) Attorney's fees, court costs, or damages may not be paid  
16 from the account.

17 Sec. 1603.3609. RULES. The commission by rule may:

18 (1) adjust any tuition reimbursement limit  
19 established under this subchapter; and

20 (2) adopt procedures regarding the collection of fees  
21 from private postsecondary schools under Section 1603.3608.

22 SECTION 3.30. Section 1603.401, Occupations Code, is  
23 amended to read as follows:

24 Sec. 1603.401. DENIAL, SUSPENSION, OR REVOCATION. The  
25 department shall deny an application for issuance or renewal of, or  
26 shall suspend or revoke, a [~~certificate~~<sub>7</sub>] license<sub>7</sub> or permit if  
27 the applicant or person holding the [~~certificate~~<sub>7</sub>] license<sub>7</sub> or

1 permit:

2 (1) engages in gross malpractice;

3 (2) knowingly continues to practice while having an  
4 infectious or contagious disease;

5 (3) knowingly makes a false or deceptive statement in  
6 advertising;

7 (4) advertises, practices, or attempts to practice  
8 under another person's name or trade name;

9 (5) engages in fraud or deceit in obtaining a  
10 [~~certificate,~~] license[~~,~~] or permit; or

11 (6) engages in an act that violates this chapter[~~,~~  
12 ~~Chapter 51, Chapter 1601, or Chapter 1602~~] or a rule or order  
13 adopted or issued under this chapter [~~those chapters~~].

14 SECTION 3.31. The heading to Subchapter J, Chapter 1603,  
15 Occupations Code, is amended to read as follows:

16 SUBCHAPTER J. OTHER [~~PENALTIES AND~~] ENFORCEMENT PROVISIONS

17 SECTION 3.32. Sections 1603.453 and 1603.454, Occupations  
18 Code, are amended to read as follows:

19 Sec. 1603.453. APPEAL BOND NOT REQUIRED. The department is  
20 not required to give an appeal bond in a cause arising under this  
21 chapter[~~, Chapter 1601, or Chapter 1602~~].

22 Sec. 1603.454. ENFORCEMENT BY ATTORNEY GENERAL. The  
23 attorney general shall represent the department in an action to  
24 enforce this chapter[~~, Chapter 1601, or Chapter 1602~~].

25 SECTION 3.33. The following provisions of the Occupations  
26 Code are repealed:

27 (1) Chapters 1601 and 1602;

- 1 (2) Sections 1603.104(b), (c), and (c-1);
- 2 (3) Section 1603.205;
- 3 (4) Section 1603.206;
- 4 (5) Section 1603.207;
- 5 (6) Section 1603.254;
- 6 (7) Section 1603.451;
- 7 (8) Section 1603.452;
- 8 (9) Section 1603.455; and
- 9 (10) Section 1603.456.

10 SECTION 3.34. (a) To ensure that licensed schools offering  
11 instruction in barbering and cosmetology maintain accreditation  
12 and that students of those schools continue to qualify for federal  
13 aid, the Texas Commission of Licensing and Regulation shall, as  
14 soon as practicable after the effective date of this Act, adopt any  
15 rules necessary for the orderly implementation of the changes in  
16 law made by this article to the licensing system and curricula  
17 requirements and standards for schools offering instruction in  
18 barbering and cosmetology.

19 (b) Not later than September 1, 2022:

20 (1) the Texas Commission of Licensing and Regulation  
21 shall adopt any additional rules necessary to implement the changes  
22 in law made by this article; and

23 (2) the Texas Department of Licensing and Regulation  
24 shall begin to issue licenses and permits under Subchapters E-1,  
25 E-2, and E-3, Chapter 1603, Occupations Code, as added by this  
26 article.

27 SECTION 3.35. Notwithstanding the repeal by this article of

1 Chapters 1601 and 1602, and Sections 1603.205, 1603.206, and  
2 1603.207, Occupations Code, the Texas Department of Licensing and  
3 Regulation may continue to issue until September 1, 2022, a  
4 certificate, license, or permit under those provisions as they  
5 existed immediately before the effective date of this Act, and  
6 those provisions are continued in effect for that purpose.

7 SECTION 3.36. Notwithstanding the repeal by this article of  
8 Chapters 1601 and 1602, Occupations Code, until the Texas  
9 Commission of Licensing and Regulation adopts rules regarding  
10 written and practical examination requirements for the issuance of  
11 licenses under Chapter 1603, Occupations Code, as amended by this  
12 article, the Texas Department of Licensing and Regulation shall  
13 continue to operate under the requirements regarding written and  
14 practical examinations in former Chapters 1601 and 1602,  
15 Occupations Code, as those chapters were in effect immediately  
16 before the effective date of this Act, and those provisions are  
17 continued in effect for that purpose.

18 SECTION 3.37. (a) A certificate, license, or permit issued  
19 under former Chapter 1601 or 1602, Occupations Code, or under  
20 former Section 1603.205, 1603.206, or 1603.207, Occupations Code,  
21 before the effective date of this Act, continues to be valid until  
22 the certificate, license, or permit expires, and those chapters and  
23 sections are continued in effect for that purpose.

24 (b) A person who on the effective date of this Act holds a  
25 certificate, license, or permit issued under former Chapter 1601 or  
26 1602, Occupations Code, or under former Section 1603.205, 1603.206,  
27 or 1603.207, Occupations Code, is entitled on expiration of that

1 certificate, license, or permit to issuance of a comparable license  
2 or permit under the applicable provision of Chapter 1603,  
3 Occupations Code, as amended by this article, if the person  
4 otherwise meets the requirements for the license or permit.

5 SECTION 3.38. Notwithstanding any other law, on the  
6 effective date of this Act, a person holding a permit under former  
7 Subchapter G, Chapter 1601, Occupations Code, a facility license  
8 under former Subchapter G, Chapter 1602, Occupations Code, or a  
9 license or permit under former Section 1603.205, 1603.206, or  
10 1603.207, Occupations Code, before the effective date of this Act  
11 may employ or contract with any qualified individual practitioner  
12 holding a certificate, license, or permit issued under Chapter 1601  
13 or 1602, Occupations Code, before the effective date of this Act,  
14 without regard to the chapter under which the practitioner was  
15 issued the certificate, license, or permit.

16 SECTION 3.39. Notwithstanding any other law, on the  
17 effective date of this Act, the holder of a license issued under  
18 former Section 1601.256, 1601.262, or 1601.263, Occupations Code,  
19 before the effective date of this Act may perform the services  
20 described by Sections 1603.0012(a)(6) and (9), Occupations Code, as  
21 added by this Act.

22 SECTION 3.40. (a) On the effective date of this Act, the  
23 Advisory Board on Barbering and the Advisory Board on Cosmetology  
24 are abolished.

25 (b) Not later than December 1, 2021, the presiding officer  
26 of the Texas Commission of Licensing and Regulation shall appoint  
27 members to the Barbering and Cosmetology Advisory Board in

1 accordance with Section 1603.051, Occupations Code, as amended by  
2 this article.

3 (c) Notwithstanding Section 1603.053, Occupations Code, as  
4 added by this article, in making the initial appointments to the  
5 Barbering and Cosmetology Advisory Board, the presiding officer of  
6 the Texas Commission of Licensing and Regulation shall designate  
7 three members of the advisory board to serve terms expiring January  
8 31, 2023, three members to serve terms expiring January 31, 2025,  
9 and three members to serve terms expiring January 31, 2027.

10 SECTION 3.41. As soon as practicable after the effective  
11 date of this Act, the comptroller of public accounts shall transfer  
12 to the barbering and cosmetology school tuition protection account  
13 the unexpended and unencumbered balance of the barber school  
14 tuition protection account and the unexpended and unencumbered  
15 balance of the private beauty culture school tuition protection  
16 account.

17 SECTION 3.42. (a) The changes in law made by this article  
18 do not affect the validity of a disciplinary action or other  
19 proceeding that was initiated before the effective date of this Act  
20 and that is pending on the effective date of this Act. A  
21 disciplinary action that is pending on the effective date of this  
22 Act is governed by the law in effect immediately before the  
23 effective date of this Act, and the former law is continued in  
24 effect for that purpose.

25 (b) The repeal of a law by this article does not entitle a  
26 person to a refund of a certificate, license, or permit fee paid by  
27 the person before the effective date of this Act.

ARTICLE 4. DRIVER TRAINING

SECTION 4.01. Section 1001.001, Education Code, is amended by adding Subdivisions (2-a), (6-a), (6-b), (14-b), (14-c), and (14-d) and amending Subdivisions (8), (9), (13), and (14-a) to read as follows:

(2-a) "Classroom instruction" includes instruction provided in a traditional classroom setting or another in-person setting or in an online setting.

(6-a) "Driver education instructor" means an individual who holds a license to teach or provide driver education issued under Section 1001.251.

(6-b) "Driver education provider" means an in-person driver education provider, an online driver education provider, or a parent-taught driver education provider.

(8) "Driver training" means:

(A) driver education provided by a driver education provider ~~[school]~~; or

(B) driving safety training provided by a driving safety provider ~~[school]~~.

(9) "Driver training provider ~~[school]~~" means a driver education provider ~~[school]~~ or driving safety provider ~~[school]~~.

(13) "Driving safety provider" means a business that provides a driving safety course ~~[school" means an enterprise that:~~

~~[(A) maintains a place of business or solicits business in this state, and~~

~~[(B) is operated by an individual, association, partnership, or corporation for educating and training persons in~~

1 ~~driving safety~~].

2 (14-a) "In-person driver education provider" means a  
3 business that provides driver education courses in person,  
4 including behind-the-wheel training, observation hours, and driver  
5 license examinations.

6 (14-b) "National criminal history record information"  
7 has the meaning assigned by Section 22.081.

8 (14-c) "Online driver education provider" means a  
9 business that provides driver education courses to students  
10 remotely through the Internet.

11 (14-d) "Parent-taught driver education provider"  
12 means a business that provides driver education course materials  
13 through physical means or remotely through the Internet to persons  
14 who conduct parent-taught driver education under Section 1001.112.

15 SECTION 4.02. Section 1001.002(c), Education Code, is  
16 amended to read as follows:

17 (c) A driver education course is exempt from this chapter,  
18 other than Section 1001.055, if the course is:

19 (1) conducted by a vocational driver training provider  
20 that exclusively trains [~~school operated to train~~] or prepares  
21 [~~prepare~~] a person for a field of endeavor in a business, trade,  
22 technical, or industrial occupation;

23 (2) conducted by a school or training program that  
24 offers only instruction of purely avocational or recreational  
25 subjects as determined by the department;

26 (3) sponsored by an employer to train its own  
27 employees without charging tuition;

1           (4) sponsored by a recognized trade, business, or  
2 professional organization with a closed membership to instruct the  
3 members of the organization; or

4           (5) conducted by a school regulated and approved under  
5 another law of this state.

6           SECTION 4.03. Section 1001.003, Education Code, is amended  
7 to read as follows:

8           Sec. 1001.003. LEGISLATIVE INTENT REGARDING SMALL  
9 BUSINESSES. It is the intent of the legislature that commission  
10 rules that affect driver training providers [~~schools~~] that qualify  
11 as small businesses be adopted and administered so as to have the  
12 least possible adverse economic effect on the providers [~~schools~~].

13           SECTION 4.04. Section 1001.004(b), Education Code, is  
14 amended to read as follows:

15           (b) The department may charge a fee to each driver education  
16 provider [~~school~~] in an amount not to exceed the actual expense  
17 incurred in the regulation of driver education courses established  
18 under Section 1001.1015.

19           SECTION 4.05. Section 1001.051, Education Code, is amended  
20 to read as follows:

21           Sec. 1001.051. JURISDICTION OVER PROVIDERS [~~SCHOOLS~~]. The  
22 department has jurisdiction over and control of driver training  
23 providers [~~schools~~] regulated under this chapter.

24           SECTION 4.06. Sections 1001.053(a) and (b), Education Code,  
25 are amended to read as follows:

26           (a) The department and executive director, as appropriate,  
27 shall:

- 1           (1) administer this chapter;
- 2           (2) enforce minimum standards for driver training
- 3 providers [~~schools~~] under this chapter;
- 4           (3) enforce rules adopted by the commission that are
- 5 necessary to administer this chapter; and
- 6           (4) inspect a driver training provider [~~school or~~
- 7 ~~course provider~~] and reinspect the [~~school or course~~] provider for
- 8 compliance with this chapter.

9           (b) The executive director may designate a person

10 knowledgeable in the administration of regulating driver training

11 providers [~~schools~~] to administer this chapter.

12           SECTION 4.07. Section [1001.054](#), Education Code, is amended

13 to read as follows:

14           Sec. 1001.054. RULES RESTRICTING ADVERTISING. [~~(c)~~] The

15 commission by rule may restrict advertising by a branch location of

16 an in-person [~~a~~] driver education provider [~~training school~~] so

17 that the location adequately identifies the primary location of the

18 provider [~~school~~] in a solicitation.

19           SECTION 4.08. Sections [1001.055](#)(a), (a-1), and (a-2),

20 Education Code, are amended to read as follows:

21           (a) The department shall provide to each licensed or exempt

22 driver education [~~school and to each parent-taught course~~] provider

23 [~~approved under this chapter~~] driver education certificates or

24 certificate numbers to enable the [~~school or approved parent-taught~~

25 ~~course~~] provider to issue department-approved driver education

26 certificates to certify completion of an approved driver education

27 course and satisfy the requirements of Sections [521.204](#)(a)(2),

1 Transportation Code, 521.1601, Transportation Code, as added by  
2 Chapter 1253 (H.B. 339), Acts of the 81st Legislature, Regular  
3 Session, 2009, and 521.1601, Transportation Code, as added by  
4 Chapter 1413 (S.B. 1317), Acts of the 81st Legislature, Regular  
5 Session, 2009.

6 (a-1) A certificate issued by a driver education [~~school or~~  
7 ~~parent-taught course~~] provider licensed [~~approved~~] under this  
8 chapter must:

9 (1) be in a form required by the department; and

10 (2) include an identifying certificate number  
11 provided by the department that may be used to verify the  
12 authenticity of the certificate with the [~~driver education school~~  
13 ~~or approved parent-taught course~~] provider.

14 (a-2) A driver education [~~school or parent-taught course~~]  
15 provider licensed [~~approved~~] under this chapter that purchases  
16 driver education certificate numbers shall issue original and  
17 duplicate certificates in a manner that, to the greatest extent  
18 possible, prevents the unauthorized production or the misuse of the  
19 certificates. The [~~driver education school or approved~~  
20 ~~parent-taught course~~] provider shall electronically submit to the  
21 department in the manner established by the department data  
22 identified by the department relating to issuance of  
23 department-approved driver education certificates with the  
24 certificate numbers.

25 SECTION 4.09. Sections [1001.056](#)(a), (b), (c-1), (d), (e),  
26 and (g), Education Code, are amended to read as follows:

27 (a) In this section, "operator" means a person approved by a

1 driving safety [~~course~~] provider to conduct an approved driving  
2 safety course.

3 (b) The department shall provide each licensed driving  
4 safety [~~course~~] provider with course completion certificate  
5 numbers to enable the provider to issue department-approved uniform  
6 certificates of course completion.

7 (c-1) A driving safety [~~course~~] provider shall provide for  
8 the issuance of original and duplicate certificates in a manner  
9 that, to the greatest extent possible, prevents the unauthorized  
10 production or the misuse of the certificates.

11 (d) A certificate under this section must:

12 (1) be in a form required by the department; and

13 (2) include an identifying number by which the  
14 department, a court, or the Department of Public Safety may verify  
15 its authenticity with the driving safety [~~course~~] provider.

16 (e) The commission by rule shall establish a fee for each  
17 course completion certificate number. A driving safety [~~course~~]  
18 provider that supplies a certificate to an operator shall collect  
19 from the operator a fee equal to the amount of the fee paid to the  
20 department for the certificate number.

21 (g) A driving safety [~~course~~] provider shall issue a  
22 duplicate certificate by United States mail or commercial or  
23 electronic delivery. The commission by rule shall determine the  
24 amount of the fee for issuance of a duplicate certificate under this  
25 subsection.

26 SECTION 4.10. Section [1001.058\(b\)](#), Education Code, is  
27 amended to read as follows:

1 (b) The advisory committee consists of nine [~~eleven~~]  
2 members appointed for staggered six-year terms by the presiding  
3 officer of the commission, with the approval of the commission, as  
4 follows:

5 (1) three driver education providers [~~one member~~  
6 ~~representing a driver education school that offers a traditional~~  
7 ~~classroom course and in-car training~~];

8 (2) three driving safety providers [~~one member~~  
9 ~~representing a driver education school that offers a traditional~~  
10 ~~classroom course, alternative methods of instruction, or in-car~~  
11 ~~training~~];

12 (3) [~~one member representing a driving safety school~~  
13 ~~offering a traditional classroom course or providing an alternative~~  
14 ~~method of instruction~~;

15 [~~(4) one member representing a driving safety course~~  
16 ~~provider approved for a traditional classroom course and for an~~  
17 ~~alternative method of instruction~~;

18 [~~(5) one member representing a driving safety course~~  
19 ~~provider approved for a traditional classroom course or for an~~  
20 ~~alternative method of instruction~~;

21 [~~(6)~~] one driver education [~~licensed~~] instructor;

22 (4) the division head [~~(7) one representative~~] of the  
23 Department of Public Safety driver license division or the division  
24 head's designee;

25 [~~(8) one member representing a drug and alcohol~~  
26 ~~driving awareness program course provider~~;

27 [~~(9) one member representing a parent-taught course~~

1 ~~provider,]~~ and

2 (5) one member of [~~(10) two members representing~~] the  
3 public.

4 SECTION 4.11. Section 1001.059(b), Education Code, is  
5 amended to read as follows:

6 (b) The department may collaborate with another state  
7 agency or contract with a licensed driver education provider  
8 [~~school~~] or a driver education instructor to create the course.

9 SECTION 4.12. Subchapter B, Chapter 1001, Education Code,  
10 is amended by adding Section 1001.060 to read as follows:

11 Sec. 1001.060. COORDINATION WITH DEPARTMENT OF PUBLIC  
12 SAFETY. (a) The department shall enter into a memorandum of  
13 understanding with the Department of Public Safety for:

14 (1) the interagency development of the content of  
15 driver's license examinations and examination reference materials;  
16 and

17 (2) any other matter the agencies consider  
18 appropriate.

19 (b) The memorandum of understanding must authorize the  
20 Department of Public Safety to share with the department any  
21 relevant information, including information related to examination  
22 results.

23 SECTION 4.13. The heading to Subchapter C, Chapter 1001,  
24 Education Code, is amended to read as follows:

25 SUBCHAPTER C. [~~OPERATION OF~~] DRIVER EDUCATION AND DRIVING SAFETY  
26 CURRICULUM [~~SCHOOL~~]

27 SECTION 4.14. Section 1001.101, Education Code, is amended

1 to read as follows:

2           Sec. 1001.101. ADULT AND MINOR DRIVER EDUCATION COURSE  
3 CURRICULUM AND TEXTBOOKS. (a) The commission by rule shall  
4 establish or approve the curriculum and designate the educational  
5 materials to be used in a driver education course for minors and  
6 adults, including a driver education course conducted by a school  
7 district, driver education provider [~~school~~], or parent or other  
8 individual under this chapter.

9           (b) The commission by rule shall prescribe the minimum  
10 number of hours of classroom instruction, observation instruction,  
11 and behind-the-wheel training that must be completed for a [A]  
12 driver education course to be approved under this chapter [~~must~~  
13 ~~require the student to complete:~~

14           ~~[(1) 7 hours of behind-the-wheel instruction in the~~  
15 ~~presence of a person who holds a driver education instructor~~  
16 ~~license or who meets the requirements for a driver education course~~  
17 ~~conducted by a parent or other individual under Section 1001.112,~~

18           ~~[(2) 7 hours of observation instruction in the~~  
19 ~~presence of a person who holds a driver education instructor~~  
20 ~~license or who meets the requirements for a driver education course~~  
21 ~~conducted by a parent or other individual under Section 1001.112,~~

22 and

23           ~~[(3) 30 hours of behind-the-wheel instruction,~~  
24 ~~including at least 10 hours of instruction that takes place at~~  
25 ~~night, in the presence of an adult who meets the requirements of~~  
26 ~~Section 521.222(d)(2), Transportation Code].~~

27           SECTION 4.15. Sections 1001.1015(b) and (d), Education

1 Code, are amended to read as follows:

2 (b) A driver education course under Subsection (a) must:

3 (1) provide at least the minimum number of hours of  
4 classroom instruction required by commission rule [~~be a six-hour~~  
5 ~~course~~]; and

6 (2) include instruction in:

7 (A) alcohol and drug awareness;

8 (B) the traffic laws of this state;

9 (C) highway signs, signals, and markings that  
10 regulate, warn, or direct traffic; and

11 (D) the issues commonly associated with motor  
12 vehicle accidents, including poor decision-making, risk taking,  
13 impaired driving, distraction, speed, failure to use a safety belt,  
14 driving at night, failure to yield the right-of-way, and using a  
15 wireless communication device while operating a vehicle.

16 (d) A driving safety course [~~or a drug and alcohol driving~~  
17 ~~awareness program~~] may not be approved as a driver education course  
18 under Subsection (a).

19 SECTION 4.16. Sections [1001.1016](#)(b) and (c), Education  
20 Code, are amended to read as follows:

21 (b) The commission by rule shall require an in-person [~~a~~]  
22 driver education provider or online driver education provider  
23 [~~school providing a driver education course~~] to:

24 (1) in the manner described by the Americans with  
25 Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), make  
26 reasonable modifications and provide aids and services when  
27 providing the classroom instruction portion of a driver education

1 ~~[the]~~ course that are necessary to ensure that a student who is deaf  
2 or hard of hearing may fully participate in the course; and

3 (2) provide to the department the provider's  
4 ~~[school's]~~ plan for complying with the rules adopted under this  
5 section as a condition of obtaining a license under Section  
6 1001.211 or renewing a license ~~[under Section 1001.303]~~.

7 (c) The rules adopted under Subsection (b) must allow an  
8 in-person ~~[a]~~ driver education provider or online driver education  
9 provider ~~[school]~~ to comply with the requirements of this section  
10 by playing a video that presents the classroom instruction portion  
11 of the driver education course in a manner that complies with the  
12 requirements of this section.

13 SECTION 4.17. Subchapter C, Chapter 1001, Education Code,  
14 is amended by adding Section 1001.1017 to read as follows:

15 Sec. 1001.1017. COURSE APPROVAL. A driver training  
16 provider shall submit to the commission for approval the course  
17 length and curriculum content for each course offered by the  
18 provider. The provider may implement a course length and  
19 curriculum content only after approval by the commission.

20 SECTION 4.18. Section 1001.112, Education Code, is amended  
21 to read as follows:

22 Sec. 1001.112. PARENT-TAUGHT DRIVER EDUCATION. (a) A  
23 person who is eligible under Subsection (b) may use course  
24 materials provided by a parent-taught driver education provider to  
25 conduct ~~[The commission by rule shall provide for approval of]~~ a  
26 driver education course approved under Section 1001.1017 for  
27 ~~[conducted by the following persons with the noted relationship to]~~

1 a person who is required to complete a driver education course to  
2 obtain a Class C license.

3 (b) A person is eligible to conduct a driver education  
4 course for another person as provided by Subsection (a) if the  
5 person:

6 (1) is either:

7 (A) a parent, stepparent, foster parent, legal  
8 guardian, grandparent, or step-grandparent of the other person; or

9 (B) ~~[(2)]~~ an individual who:

10 (i) ~~[(A)]~~ has been designated on a form  
11 prescribed by the department for purposes of this section by a  
12 parent or ~~[(7-a)]~~ legal guardian of the other person ~~[(7)]~~ or by a judge  
13 of a court with jurisdiction over the other person ~~[on a form~~  
14 ~~prescribed by the department]~~;

15 (ii) ~~[(B)]~~ is at least 25 years of age ~~[or~~  
16 ~~older]~~;

17 (iii) ~~[(C)]~~ does not charge a fee for  
18 conducting the course; and

19 (iv) ~~[(D)]~~ has at least seven years of  
20 driving experience;

21 (2) has possessed ~~and~~

22 ~~[(E) otherwise qualifies to conduct a course~~  
23 ~~under Subsection (a-1)].~~

24 ~~[(a-1) The rules must provide that the student driver spend~~  
25 ~~a minimum number of hours in classroom and behind-the-wheel~~  
26 ~~instruction.~~

27 ~~[(a-2) The rules must provide that the person conducting the~~

1 ~~course.~~

2           ~~[(1) possess]~~ a valid license for the preceding three  
3 years that has not been suspended, revoked, or forfeited in the past  
4 three years for an offense that involves the operation of a motor  
5 vehicle;

6           (3) ~~[(2)]~~ has not been convicted of:

7                   (A) criminally negligent homicide; or

8                   (B) driving while intoxicated in the past seven  
9 years; and

10           (4) ~~[(3)]~~ has not been convicted during the preceding  
11 three years of:

12                   (A) three or more moving violations described by  
13 Section 542.304, Transportation Code, including violations that  
14 resulted in an accident; or

15                   (B) two or more moving violations described by  
16 Section 542.304, Transportation Code, that resulted in an accident.

17           (c) A person conducting a driver education course under this  
18 section may provide the classroom instruction portion, the  
19 behind-the-wheel training portion, or both portions.

20           (d) [(b)] The department may [approve a course described by  
21 Subsection (a) if the department determines that the course  
22 materials are at least equal to those required in a course approved  
23 by the department, and the department may] not require for a course  
24 conducted under this section that:

25                   (1) the classroom instruction be provided in a room  
26 with particular characteristics or equipment; or

27                   (2) the vehicle used for the behind-the-wheel training

1 ~~[instruction]~~ have equipment other than the equipment otherwise  
2 required by law for operation of the vehicle on a highway while the  
3 vehicle is not being used for driver training.

4 (e) A parent-taught driver education provider ~~[(c) The~~  
5 ~~rules must provide a method by which:~~

6 ~~[(1) approval of a course is obtained,~~

7 ~~[(2) an applicant submits proof of completion of the~~  
8 ~~course,~~

9 ~~[(3) approval for delivering course materials by an~~  
10 ~~alternative method, including electronic means, is obtained,~~

11 ~~[(4) a provider of a course approved under this~~  
12 ~~section]~~ may administer to an applicant the highway sign and  
13 traffic law parts of the examination as provided by Section  
14 [521.1655](#)(a-1), Transportation Code, through electronic means~~;~~ ~~and~~

15 ~~[(5) an applicant submits proof of passage of an~~  
16 ~~examination administered under Subdivision (4)].~~

17 (f) ~~[(d) Completion of a driver education course approved~~  
18 ~~under this section has the same effect under this chapter as~~  
19 ~~completion of a driver education course approved by the department.~~

20 ~~[(e)]~~ The department may not charge a fee for the submission  
21 of proof of:

22 (1) completion of a ~~[the]~~ course conducted under this  
23 section; or

24 (2) passage of an examination administered under  
25 Subsection (e) ~~[(c)]~~.

26 SECTION 4.19. Sections [1001.151](#)(b) and (c), Education Code,  
27 are amended to read as follows:

1 (b) The commission by rule shall establish a fee for:

2 (1) an initial in-person driver education provider  
3 ~~[school]~~ license and for each branch location;

4 (2) an initial online driver education provider  
5 ~~[driving safety school]~~ license;

6 (3) an initial parent-taught driver education  
7 ~~[course]~~ provider license~~[, except that the executive director may~~  
8 ~~waive the fee];~~

9 (4) an initial driving safety provider license;

10 (5) the annual renewal for a ~~[course provider,]~~  
11 driving safety provider ~~[school]~~, driver education provider  
12 ~~[school]~~, or branch location of an in-person driver education  
13 provider, except that the executive director may waive the fee if  
14 revenue generated by the issuance of course completion certificate  
15 numbers and driver education certificates is sufficient to cover  
16 the cost of administering this chapter and Article 45.0511, Code of  
17 Criminal Procedure;

18 (6) ~~[(5)]~~ a change of address of a driver education  
19 provider ~~[school, driving safety school,]~~ or driving safety  
20 ~~[course]~~ provider; and

21 (7) ~~[(6)]~~ a change of name of:

22 (A) a driver education ~~[school or course]~~  
23 provider or an owner of a driver education ~~[school or course]~~  
24 provider; or

25 (B) a driving safety provider ~~[school]~~ or an  
26 owner of a driving safety provider ~~[school,]~~

27 ~~[(7) each additional driver education or driving~~

1 ~~safety course at a driver training school; and~~

2 ~~[(8) an initial application for approval of a driving~~  
3 ~~safety course that has not been evaluated by the department].~~

4 (c) An application for an initial driver education [~~or~~  
5 ~~driving safety~~] instructor license must be accompanied by a  
6 processing fee and an annual license fee, except that the  
7 department may not collect the processing fee from an applicant  
8 [~~for a driver education instructor license~~] who is currently  
9 teaching a driver education course in a public school in this state.

10 SECTION 4.20. The heading to Subchapter E, Chapter 1001,  
11 Education Code, is amended to read as follows:

12 SUBCHAPTER E. LICENSING OF DRIVER TRAINING [~~SCHOOLS AND COURSE~~]  
13 PROVIDERS

14 SECTION 4.21. Section 1001.201, Education Code, is amended  
15 to read as follows:

16 Sec. 1001.201. LICENSE REQUIRED. A person may not provide:

17 (1) [~~operate a school that provides~~] a driver  
18 education course:

19 (A) in person unless the person holds an  
20 in-person [~~a~~] driver education provider [~~school~~] license; or

21 (B) online unless the person holds an online  
22 driver education provider license;

23 (2) driver education course materials to persons  
24 conducting parent-taught driver education under Section 1001.112  
25 unless the person holds a parent-taught driver education provider  
26 license; or

27 (3) [~~operate a school that provides~~] driving safety

1 courses unless the person holds a driving safety provider [~~school~~]  
2 license[~~, or~~

3 [~~(3) operate as a course provider unless the person~~  
4 ~~holds a course provider license].~~

5 SECTION 4.22. Section 1001.202, Education Code, is amended  
6 to read as follows:

7 Sec. 1001.202. LOCATIONS FOR IN-PERSON DRIVER EDUCATION  
8 PROVIDERS. An in-person [~~(a) A~~] driver education provider [~~school~~]  
9 that teaches a driver education course at one or more branch  
10 locations must obtain a separate in-person driver education  
11 provider [~~school~~] license for its main business location and for  
12 each branch location. An in-person [~~A~~] driver education provider  
13 [~~school~~] may not operate a branch location of a branch location.

14 [~~(b) A driving safety school may use multiple classroom~~  
15 ~~locations to teach a driving safety course if each location is~~  
16 ~~approved by the department.]~~

17 SECTION 4.23. Section 1001.204, Education Code, is amended  
18 to read as follows:

19 Sec. 1001.204. REQUIREMENTS FOR DRIVER EDUCATION PROVIDER  
20 [~~SCHOOL~~] LICENSE. (a) The commission by rule shall establish the  
21 criteria applicable to each [~~for a~~] driver education provider  
22 [~~school~~] license.

23 (b) The department shall approve an application for a driver  
24 education provider [~~school~~] license if the application is submitted  
25 on a form approved by the department, the application is  
26 accompanied by the fee, and the department determines that the  
27 applicant [~~school~~]:

1           (1) has courses, curricula, and instruction of a  
2 quality, content, and length that reasonably and adequately achieve  
3 the stated objective for which the courses, curricula, and  
4 instruction are offered;

5           ~~(2) [has adequate space, equipment, instructional~~  
6 ~~material, and instructors to provide training of good quality in~~  
7 ~~the classroom and behind the wheel, if applicable,;~~

8           ~~[(3) has instructors who have adequate educational~~  
9 ~~qualifications and experience,;~~

10           ~~[(4)]~~ provides to each student before enrollment or  
11 each person before contracting for driver education course  
12 materials, to the extent applicable:

13                   (A) a copy of:

14                           (i) the refund policy;

15                           (ii) the schedule of tuition, fees, and  
16 other charges; and

17                           (iii) the regulations relating to absence,  
18 grading policy, and rules of operation and conduct; and

19                   (B) the department's name, mailing address,  
20 telephone number, and Internet website address for the purpose of  
21 directing complaints to the department;

22           (3) to the extent applicable, [(5)] maintains adequate  
23 records as prescribed by the department to show attendance and  
24 progress or grades and enforces satisfactory standards relating to  
25 attendance, progress, and conduct;

26           (4) [(6)] on completion of training, issues each  
27 student a certificate indicating the course name and satisfactory

1 completion;

2 (5) [~~(7)~~] ~~complies with all county, municipal, state,~~  
3 ~~and federal regulations, including fire, building, and sanitation~~  
4 ~~codes and assumed name registration, if applicable;~~

5 [~~(8)~~] is financially sound and capable of fulfilling  
6 its commitments for training;

7 (6) [~~(9)~~] maintains and publishes as part of its  
8 student enrollment contract or materials contract, as applicable,  
9 the proper policy for the refund of the unused portion of tuition,  
10 fees, and other charges if a student fails to take the course or  
11 withdraws or is discontinued from the provider [~~school~~] at any time  
12 before completion;

13 (7) [~~(10)~~] does not use erroneous or misleading  
14 advertising, either by actual statement, omission, or intimation,  
15 as determined by the department;

16 (8) [~~(11)~~] does not use a name similar to the name of  
17 another existing driver education provider [~~school~~] or  
18 tax-supported educational institution in this state, unless  
19 specifically approved in writing by the executive director;

20 (9) [~~(12)~~] submits to the department for approval the  
21 applicable course hour lengths and curriculum content for each  
22 course offered by the provider [~~school~~];

23 (10) [~~(13)~~] does not owe an administrative penalty for  
24 a violation of this chapter;

25 (11) meets all requirements applicable to the license  
26 type under Section 1001.2041, 1001.2042, or 1001.2043; and

27 (12) [~~(14)~~] meets any additional criteria required by

1 the department, including any applicable inspection requirements[+  
2 and  
3 ~~[(15) provides adequate testing and security measures~~  
4 ~~for the school's method of instruction]~~.

5 SECTION 4.24. Subchapter E, Chapter 1001, Education Code,  
6 is amended by adding Sections 1001.2041, 1001.2042, and 1001.2043  
7 to read as follows:

8 Sec. 1001.2041. REQUIREMENTS FOR IN-PERSON DRIVER  
9 EDUCATION PROVIDER. Before an in-person driver education provider  
10 license may be issued, the department must determine that the  
11 applicant:

12 (1) has adequate space, equipment, instructional  
13 material, and driver education instructors to provide training of  
14 good quality in the classroom and behind the wheel; and

15 (2) complies with all county, municipal, state, and  
16 federal regulations, including fire, building, and sanitation  
17 codes and assumed name registration, if applicable.

18 Sec. 1001.2042. REQUIREMENTS FOR ONLINE DRIVER EDUCATION  
19 PROVIDER. Before an online driver education provider license may  
20 be issued, the department must determine that the applicant has:

21 (1) an adequate number of driver education instructors  
22 to provide training of good quality; and

23 (2) adequate testing and security measures to validate  
24 a student's identity and active participation in a driver education  
25 course.

26 Sec. 1001.2043. REQUIREMENTS FOR PARENT-TAUGHT DRIVER  
27 EDUCATION PROVIDER. (a) Before a parent-taught driver education

1 provider license may be issued, the department must determine that  
2 the applicant has:

3 (1) an adequate method by which a person completing a  
4 parent-taught driver education course under Section 1001.112 using  
5 the provider's course materials may submit proof of:

6 (A) completion of the course; or

7 (B) passage of an examination administered by the  
8 provider under Section 1001.112(e);

9 (2) hired or contracted with only driver education  
10 instructors, if the provider elects to hire or contract with an  
11 instructor to assist with driver education; and

12 (3) adequate testing and security measures to validate  
13 a student's active participation in a driver education course.

14 (b) Except as specifically provided by this chapter, a  
15 parent-taught driver education provider that provides driver  
16 education course materials remotely through the Internet is not  
17 subject to any course or curriculum requirements established by the  
18 commission or department for online driver education providers.

19 SECTION 4.25. Section 1001.206, Education Code, is amended  
20 to read as follows:

21 Sec. 1001.206. REQUIREMENTS FOR DRIVING SAFETY [~~COURSE~~]  
22 PROVIDER LICENSE. (a) The commission by rule shall establish  
23 criteria for a driving safety [~~course~~] provider license.

24 (b) The department shall approve an application for a  
25 driving safety [~~course~~] provider license if the application is  
26 submitted on a form approved by the executive director, includes  
27 the fee, and [~~on inspection of the premises of the school~~] the

1 department determines that the applicant:

2 (1) has driving safety courses, curricula, and  
3 instruction of a quality, content, and length that reasonably and  
4 adequately achieve the stated objective for which the courses,  
5 curricula, and instruction are offered [~~the course provider has an~~  
6 ~~approved course that at least one licensed driving safety school is~~  
7 ~~willing to offer~~];

8 (2) provides [~~the course provider has adequate~~  
9 ~~educational qualifications and experience,~~

10 [~~(3) the course provider will:~~

11 [~~(A) develop and provide~~] to each student before  
12 enrollment:

13 (A) [~~driving safety school that offers the~~  
14 ~~approved course~~] a copy of:

15 (i) the refund policy; [~~and~~

16 (ii) the schedule of tuition, fees, and  
17 other charges; and

18 (iii) the regulations relating to absence,  
19 grading policy, and rules of operation and conduct; and

20 (B) [~~provide to the driving safety school~~] the  
21 department's name, mailing address, telephone number, and Internet  
22 website address for the purpose of directing complaints to the  
23 department;

24 (3) [~~(4) a copy of the information provided to each~~  
25 ~~driving safety school under Subdivision (3) will be provided to~~  
26 ~~each student by the school before enrollment,~~

27 [~~(5)~~] not later than the 15th working day after the date

1 a person successfully completes the course, issues [~~the course~~  
2 ~~provider will issue~~] and delivers [~~deliver~~] to the person by United  
3 States mail or commercial or electronic delivery a uniform  
4 certificate of course completion indicating the course name and  
5 successful completion;

6 (4) [~~(6) the course provider~~] maintains adequate  
7 records as prescribed by the department to show attendance and  
8 progress or grades and enforces satisfactory standards relating to  
9 attendance, progress, and conduct;

10 (5) [~~(7) the course provider~~] complies with all  
11 county, municipal, state, and federal laws, including assumed name  
12 registration and other applicable requirements;

13 (6) [~~(8) the course provider~~] is financially sound and  
14 capable of fulfilling its commitments for training;

15 (7) [~~(9) the course provider~~] maintains and publishes  
16 as a part of its student enrollment contract the proper policy for  
17 the refund of the unused portion of tuition, fees, and other charges  
18 if a student fails to take the course or withdraws or is  
19 discontinued from the provider [~~school~~] at any time before  
20 completion;

21 (8) [~~(10) the course provider~~] does not use erroneous  
22 or misleading advertising, either by actual statement, omission, or  
23 intimation, as determined by the department;

24 (9) [~~(11) the course provider~~] does not use a name  
25 similar to the name of another existing driving safety provider  
26 [~~school~~] or tax-supported educational institution in this state,  
27 unless specifically approved in writing by the executive director;

1           (10) submits to the department for approval the  
2 applicable course hour lengths and curriculum content for each  
3 course offered by the provider;

4           (11) [~~(12) the course provider~~] does not owe an  
5 administrative penalty for a violation of this chapter;

6           (12) provides adequate testing and security measures  
7 for the provider's method of instruction to validate a student's  
8 identity and active participation in a driving safety course; and

9           (13) [~~the course provider~~] meets any additional  
10 criteria required by the department.

11           SECTION 4.26. Section 1001.207, Education Code, is amended  
12 to read as follows:

13           Sec. 1001.207. BOND REQUIREMENTS: DRIVER EDUCATION  
14 PROVIDER [~~SCHOOL~~]. (a) Before a driver education provider  
15 [~~school~~] may be issued a license, the provider [~~school~~] must file a  
16 corporate surety bond with the department in the amount of:

17           (1) \$10,000 [~~for the primary location of the school~~];  
18 and

19           (2) for an in-person driver education provider, \$5,000  
20 for each branch location of the provider.

21           (b) A bond issued under Subsection (a) must be:

22           (1) issued in a form approved by the department;

23           (2) issued by a company authorized to do business in  
24 this state;

25           (3) payable to the department to be used only for  
26 payment of a refund due to a student or potential student;

27           (4) conditioned on the compliance of the provider

1 ~~[school]~~ and its officers, agents, and employees with this chapter  
2 and rules adopted under this chapter; and

3 (5) issued for a period corresponding to the term of  
4 the license.

5 (c) Posting of a bond in the amount required under  
6 Subsection (a) satisfies the requirements for financial stability  
7 for driver education providers ~~[schools]~~ under this chapter.

8 (d) A driver education provider who files a bond under  
9 Subsection (a)(1) or provides an alternate form of security under  
10 Section 1001.210 to obtain one type of driver education provider  
11 license may not be required to file an additional bond under  
12 Subsection (a)(1) or provide an alternate form of security under  
13 Section 1001.210 for any other type of driver education provider  
14 license.

15 SECTION 4.27. Section 1001.209, Education Code, is amended  
16 to read as follows:

17 Sec. 1001.209. BOND REQUIREMENTS: DRIVING SAFETY ~~[COURSE]~~  
18 PROVIDER. (a) Before a license may be issued to a driving safety  
19 ~~[course]~~ provider, the ~~[course]~~ provider must provide a corporate  
20 surety bond in the amount of \$10,000.

21 (b) A bond issued under Subsection (a) must be:

22 (1) issued by a company authorized to do business in  
23 this state;

24 (2) payable to the department to be used:

25 (A) for payment of a refund due a student of the  
26 ~~[course]~~ provider's approved driving safety courses ~~[course]~~;

27 (B) to cover the payment of unpaid fees or

1 penalties assessed by the executive director or the commission; or

2 (C) to recover any cost associated with providing  
3 course completion certificate numbers, including the cancellation  
4 of certificate numbers;

5 (3) conditioned on the compliance of the [~~course~~]  
6 provider and its officers, agents, and employees with this chapter  
7 and rules adopted under this chapter; and

8 (4) issued for a period corresponding to the term of  
9 the license.

10 SECTION 4.28. Section 1001.210, Education Code, is amended  
11 to read as follows:

12 Sec. 1001.210. ALTERNATE FORM OF SECURITY. Instead of the  
13 bond required by Section 1001.207 or 1001.209, a driver education  
14 provider [~~school~~] or driving safety [~~course~~] provider may provide  
15 another form of security that is:

16 (1) approved by the department; and

17 (2) in the amount required for a comparable bond under  
18 Section 1001.207 or 1001.209.

19 SECTION 4.29. Sections 1001.211(b) and (c), Education Code,  
20 are amended to read as follows:

21 (b) A license must be in a form determined by the department  
22 and must show in a clear and conspicuous manner:

23 (1) the date of issuance, effective date, and term of  
24 the license;

25 (2) the name and address of the driver training  
26 [~~school or course~~] provider;

27 (3) the authority for and conditions of approval; and

1           (4) any other fair and reasonable representation that  
2 is consistent with this chapter and that the department considers  
3 necessary.

4           (c) An applicant may obtain both a driver education provider  
5 ~~[school]~~ license and a driving safety provider ~~[school]~~ license.

6           SECTION 4.30. Sections 1001.213(b), (c), and (d), Education  
7 Code, are amended to read as follows:

8           (b) If a change in ownership of a driver training ~~[school or~~  
9 ~~course]~~ provider is proposed, a new owner shall apply for a new  
10 ~~[school or course]~~ provider license at least 30 days before the date  
11 of the change.

12           (c) The commission by rule may establish fees for a new  
13 driver education ~~[school or course]~~ provider license under  
14 Subsection (b) and, if applicable, for each branch location of an  
15 in-person driver education provider if:

16           (1) the new owner is substantially similar to the  
17 previous owner; and

18           (2) there is no significant change in the management  
19 or control of the ~~[driver education school or course]~~ provider.

20           (d) The department may inspect a driver training provider's  
21 main ~~[school]~~ or ~~[a]~~ branch location, as applicable, after a change  
22 of ownership.

23           SECTION 4.31. Section 1001.214, Education Code, is amended  
24 to read as follows:

25           Sec. 1001.214. DUPLICATE LICENSE. A duplicate license may  
26 be issued to a driver training ~~[school or course]~~ provider if:

27           (1) the original license is lost or destroyed; and

1           (2) an affidavit of that fact is filed with the  
2 department.

3           SECTION 4.32. Section 1001.251(a), Education Code, is  
4 amended to read as follows:

5           (a) Except as authorized under Section 1001.112, a [A]  
6 person may not teach or provide driver education[~~, either as an~~  
7 ~~individual or in a driver education school,~~] or conduct any phase of  
8 driver education[~~,~~] unless the person holds a driver education  
9 instructor license issued by the executive director.

10          SECTION 4.33. Section 1001.2511(e), Education Code, is  
11 amended to read as follows:

12          (e) The commission may adopt rules to administer this  
13 section, including rules establishing:

14           (1) deadlines for a person to submit fingerprints and  
15 photographs in compliance with this section;

16           (2) sanctions for a person's failure to comply with the  
17 requirements of this section, including suspension or revocation of  
18 or refusal to issue a license described by Subsection (a); and

19           (3) notification to a driver education provider  
20 [~~school~~] of relevant information obtained by the department under  
21 this section.

22          SECTION 4.34. Section 1001.2512, Education Code, is amended  
23 to read as follows:

24          Sec. 1001.2512. FEES FOR CRIMINAL HISTORY RECORD  
25 INFORMATION REVIEW. The commission by rule shall require a person  
26 submitting to a national criminal history record information review  
27 under Section 1001.2511 or the driver education provider [~~school~~]

1 employing the person, as determined by the department, to pay a fee  
2 for the review in an amount not to exceed the amount of any fee  
3 imposed on an application for certification under Subchapter B,  
4 Chapter 21, for a national criminal history record information  
5 review under Section 22.0837.

6 SECTION 4.35. Section 1001.2513, Education Code, is amended  
7 to read as follows:

8 Sec. 1001.2513. CONFIDENTIALITY OF INFORMATION. A social  
9 security number, driver's license number, other identification  
10 number, or fingerprint record collected for a person to comply with  
11 Section 1001.2511:

12 (1) may not be released except:

13 (A) to provide relevant information to driver  
14 education providers [~~schools~~] or otherwise to comply with Section  
15 1001.2511;

16 (B) by court order; or

17 (C) with the consent of the person who is the  
18 subject of the information;

19 (2) is not subject to disclosure as provided by  
20 Chapter 552, Government Code; and

21 (3) shall be destroyed by the requestor or any  
22 subsequent holder of the information not later than the first  
23 anniversary of the date the information is received.

24 SECTION 4.36. Sections 1001.2514(a) and (d), Education  
25 Code, are amended to read as follows:

26 (a) A driver education provider [~~school~~] shall discharge or  
27 refuse to hire as an instructor an employee or applicant for

1 employment if the department obtains information through a criminal  
2 history record information review that:

- 3 (1) the employee or applicant has been convicted of:
- 4 (A) a felony offense under Title 5, Penal Code;
  - 5 (B) an offense on conviction of which a defendant  
6 is required to register as a sex offender under Chapter 62, Code of  
7 Criminal Procedure; or
  - 8 (C) an offense under the laws of another state or  
9 federal law that is equivalent to an offense under Paragraph (A) or  
10 (B); and

11 (2) at the time the offense occurred, the victim of the  
12 offense described by Subdivision (1) was under 18 years of age or  
13 was enrolled in a public school.

14 (d) A driver education provider [~~school~~] may discharge an  
15 employee who serves as an instructor if the provider [~~school~~]  
16 obtains information of the employee's conviction of a felony or of a  
17 misdemeanor involving moral turpitude that the employee did not  
18 disclose to the provider [~~school~~] or the department. An employee  
19 discharged under this subsection is considered to have been  
20 discharged for misconduct for purposes of Section 207.044, Labor  
21 Code.

22 SECTION 4.37. Section 1001.2531(b), Education Code, is  
23 amended to read as follows:

24 (b) An applicant for a driver education instructor license  
25 under this section must:

- 26 (1) apply to the department on a form prescribed by the  
27 department and under rules adopted by the commission;

1           (2) submit with the application a nonrefundable  
2 application fee in an amount set by commission rule; and

3           (3) present satisfactory evidence to the department  
4 that the applicant:

5                   (A) is at least 21 years of age; and

6                   (B) [~~holds a high school diploma or high school~~  
7 ~~equivalency certificate; and~~

8                   [~~(C)~~] meets any other requirement established by  
9 commission rule.

10           SECTION 4.38. Sections 1001.255(a), (b), and (c), Education  
11 Code, are amended to read as follows:

12           (a) The department shall regulate as a driver education  
13 provider of the type determined appropriate by the department  
14 [~~school~~] a driver education instructor who:

15                   (1) teaches driver education courses in a county  
16 having a population of 50,000 or less; and

17                   (2) does not teach more than 200 students annually.

18           (b) An instructor described by Subsection (a) must submit to  
19 the department an application for an initial or renewal driver  
20 education provider [~~school~~] license, together with all required  
21 documentation and information.

22           (c) The executive director may waive initial or renewal  
23 driver education provider [~~school~~] license fees.

24           SECTION 4.39. Section 1001.301, Education Code, is amended  
25 to read as follows:

26           Sec. 1001.301. EXPIRATION OF DRIVER TRAINING [~~SCHOOL OR~~  
27 ~~COURSE~~] PROVIDER LICENSE. The term of a driver training [~~education~~

1 ~~school, driving safety school, or course~~] provider license may not  
2 exceed one year.

3 SECTION 4.40. Section [1001.302](#), Education Code, is amended  
4 to read as follows:

5 Sec. 1001.302. EXPIRATION OF DRIVER EDUCATION INSTRUCTOR  
6 LICENSE. The term of a driver education instructor [~~or driving~~  
7 ~~safety instructor~~] license may not exceed one year.

8 SECTION 4.41. Section [1001.351](#), Education Code, is amended  
9 to read as follows:

10 Sec. 1001.351. DRIVING SAFETY [~~COURSE~~] PROVIDER  
11 RESPONSIBILITIES. (a) Not later than the 15th working day after  
12 the course completion date, a driving safety [~~course~~] provider or a  
13 person at the [~~course~~] provider's facilities shall issue and  
14 deliver by United States mail or commercial or electronic delivery  
15 a uniform certificate of course completion to a person who  
16 successfully completes an approved driving safety course.

17 (b) A driving safety [~~course~~] provider shall electronically  
18 submit to the department in the manner established by the  
19 department data identified by the department relating to uniform  
20 certificates of course completion issued by the [~~course~~] provider.

21 [~~(c) A course provider shall conduct driving safety~~  
22 ~~instructor development courses for its approved driving safety~~  
23 ~~courses.~~]

24 SECTION 4.42. Section [1001.352](#), Education Code, is amended  
25 to read as follows:

26 Sec. 1001.352. FEES FOR DRIVING SAFETY COURSE. A driving  
27 safety [~~course~~] provider shall charge each student:

1 (1) at least \$25 for a driving safety course; and

2 (2) a fee of at least \$3 for course materials and for  
3 supervising and administering the course.

4 SECTION 4.43. Section 1001.353, Education Code, is amended  
5 to read as follows:

6 Sec. 1001.353. DRIVER TRAINING COURSE AT PUBLIC OR PRIVATE  
7 SCHOOL. A driver training provider [~~school~~] may conduct a driver  
8 training course at a public or private school for students of the  
9 public or private school as provided by an agreement with the public  
10 or private school. The course is subject to any law applicable to a  
11 course conducted at the main business location of the driver  
12 training provider [~~school~~].

13 SECTION 4.44. Section 1001.355, Education Code, is amended  
14 to read as follows:

15 Sec. 1001.355. WITHHOLDING CERTAIN RECORDS. A driver  
16 training provider [~~school~~] may withhold a student's diploma or  
17 certificate of completion until the student fulfills the student's  
18 financial obligation to the provider [~~school~~].

19 SECTION 4.45. Section 1001.356, Education Code, is amended  
20 to read as follows:

21 Sec. 1001.356. REQUIREMENT TO CARRY LICENSE. A driver  
22 education instructor [~~or driving safety instructor~~] shall carry the  
23 person's instructor license at all times while instructing a driver  
24 education course [~~or driving safety course~~].

25 SECTION 4.46. Section 1001.357, Education Code, is amended  
26 to read as follows:

27 Sec. 1001.357. CONTRACT WITH UNLICENSED DRIVER TRAINING

1 PROVIDER [~~SCHOOL~~]. A contract entered into with a person for a  
2 course of instruction by or on behalf of a person operating an  
3 unlicensed driver training provider [~~school~~] is unenforceable.

4 SECTION 4.47. Section 1001.401, Education Code, is amended  
5 to read as follows:

6 Sec. 1001.401. CANCELLATION AND SETTLEMENT POLICY. As a  
7 condition for obtaining a driver training [~~education school license~~  
8 ~~or course~~] provider license, the [~~school or course~~] provider must  
9 maintain a cancellation and settlement policy that provides a full  
10 refund of all money paid by a student if:

11 (1) the student cancels the enrollment contract before  
12 midnight of the third day, other than a Saturday, Sunday, or legal  
13 holiday, after the date the enrollment contract is signed by the  
14 student, unless the student successfully completes the course or  
15 receives a failing grade on the course examination; or

16 (2) the enrollment of the student was procured as a  
17 result of a misrepresentation in:

18 (A) advertising or promotional materials of the  
19 [~~school or course~~] provider; or

20 (B) a representation made by an owner or employee  
21 of the [~~school or course~~] provider.

22 SECTION 4.48. Section 1001.402, Education Code, is amended  
23 to read as follows:

24 Sec. 1001.402. TERMINATION POLICY. (a) As a condition for  
25 obtaining a driver training provider [~~education school~~] license,  
26 the provider [~~school~~] must maintain a policy for the refund of the  
27 unused portion of tuition, fees, and other charges if a student,

1 after expiration of the cancellation period described by Section  
2 1001.401, does not enter the course or withdraws or is discontinued  
3 from the course at any time before completion.

4 (b) The policy must provide that:

5 (1) refunds are based on the period of enrollment  
6 computed on the basis of course time expressed in clock hours;

7 (2) the effective date of the termination for refund  
8 purposes is the earliest of:

9 (A) the last day of attendance, if the student's  
10 enrollment is terminated by the provider [~~school~~];

11 (B) the date the provider [~~school~~] receives  
12 written notice from the student; or

13 (C) the 10th school day after the last day of  
14 attendance;

15 (3) if tuition is collected in advance of entrance and  
16 if a student does not enter the course [~~school~~], terminates  
17 enrollment, or withdraws, the provider [~~school~~]:

18 (A) may retain not more than \$50 as an  
19 administrative expense; and

20 (B) shall refund that portion of the student's  
21 remaining classroom tuition and fees and behind-the-wheel tuition  
22 and fees that corresponds to services the student does not receive;

23 (4) the provider [~~school~~] shall refund items of extra  
24 expense to the student, including instructional supplies, books,  
25 laboratory fees, service charges, rentals, deposits, and all other  
26 charges not later than the 30th day after the effective date of  
27 enrollment termination if:

1 (A) the extra expenses are separately stated and  
2 shown in the information provided to the student before enrollment;  
3 and

4 (B) the student returns to the provider [~~school~~]  
5 any provider [~~school~~] property in the student's possession; and

6 (5) refunds shall be completed not later than the 30th  
7 day after the effective date of enrollment termination.

8 SECTION 4.49. Section 1001.403, Education Code, is amended  
9 to read as follows:

10 Sec. 1001.403. REFUND FOR DISCONTINUED COURSE. On the  
11 discontinuation of a course by a driver training [~~education school~~  
12 ~~or a course~~] provider that prevents a student from completing the  
13 course, all tuition and fees paid become refundable.

14 SECTION 4.50. Sections 1001.404(a) and (c), Education Code,  
15 are amended to read as follows:

16 (a) If a refund is not timely made, the driver training  
17 [~~education school or course~~] provider shall pay interest on the  
18 amount of the refund. Interest begins to accrue on the first day  
19 after the expiration of the refund period and ends on the day  
20 preceding the date the refund is made.

21 (c) The department may except a driver training [~~education~~  
22 ~~school or course~~] provider from the payment of interest if the  
23 [~~school or course~~] provider makes a good-faith effort to refund  
24 tuition, fees, and other charges but is unable to locate the student  
25 to whom the refund is owed. On request of the department, the  
26 driver training [~~school or course~~] provider shall document the  
27 effort to locate a student.

1 SECTION 4.51. Subchapter I, Chapter 1001, Education Code,  
2 is amended by adding Section 1001.405 to read as follows:

3 Sec. 1001.405. APPLICABILITY TO PARENT-TAUGHT DRIVER  
4 EDUCATION PROVIDER. The commission shall adopt rules as necessary  
5 to ensure this subchapter applies as appropriate to a parent-taught  
6 driver education provider.

7 SECTION 4.52. Section 1001.451, Education Code, is amended  
8 to read as follows:

9 Sec. 1001.451. PROHIBITED PRACTICES. A person may not:

10 (1) use advertising that is false, misleading, or  
11 deceptive;

12 (2) fail to notify the department of the  
13 discontinuance of the operation of a driver training provider  
14 [~~school~~] before the 15th working day after the date of cessation of  
15 classes and make available accurate records as required by this  
16 chapter;

17 (3) issue, sell, trade, or transfer:

18 (A) a uniform certificate of course completion or  
19 driver education certificate to a person or driver training  
20 provider [~~school~~] not authorized to possess the certificate;

21 (B) a uniform certificate of course completion to  
22 a person who has not successfully completed an approved [~~seven-hour~~]  
23 driving safety course; or

24 (C) a driver education certificate to a person  
25 who has not successfully completed a department-approved driver  
26 education course;

27 (4) negotiate a promissory instrument received as

1 payment of tuition or another charge before the student completes  
2 75 percent of the course, except that before that time the  
3 instrument may be assigned to a purchaser who becomes subject to any  
4 defense available against the provider [~~school~~] named as payee; or

5 (5) conduct any part of an approved driver education  
6 course [~~or driving safety course~~] without having an instructor  
7 adequately available [~~physically present in appropriate proximity~~]  
8 to the student for the type of instruction being given.

9 SECTION 4.53. Section [1001.452](#), Education Code, is amended  
10 to read as follows:

11 Sec. 1001.452. COURSE OF INSTRUCTION OR PROVISION OF  
12 MATERIALS. A driver training provider [~~school~~] may not conduct a  
13 course of instruction or provide driver education course materials,  
14 as applicable, in this state before the date the provider [~~school~~]  
15 receives the necessary [~~a~~] driver training provider [~~school~~]  
16 license from the department.

17 SECTION 4.54. The heading to Section [1001.453](#), Education  
18 Code, is amended to read as follows:

19 Sec. 1001.453. DISTRIBUTION OF WRITTEN INFORMATION ON  
20 DRIVING SAFETY [~~COURSE~~] PROVIDER.

21 SECTION 4.55. Sections [1001.453](#)(a) and (b), Education Code,  
22 are amended to read as follows:

23 (a) A person may not distribute within 500 feet of a court  
24 with jurisdiction over an offense to which Article [45.0511](#), Code of  
25 Criminal Procedure, applies written information that advertises a  
26 driving safety [~~course~~] provider.

27 (b) The department may revoke the license of a driving

1 safety [~~course~~] provider if the [~~course~~] provider or the [~~course~~]  
2 provider's agent, employee, or representative violates this  
3 section.

4 SECTION 4.56. Section 1001.455, Education Code, is amended  
5 to read as follows:

6 Sec. 1001.455. DENIAL, SUSPENSION, OR REVOCATION OF DRIVER  
7 EDUCATION INSTRUCTOR LICENSE. (a) The executive director or the  
8 commission may deny an application for a driver education [~~an~~]  
9 instructor license or suspend or revoke the license of a driver  
10 education [~~an~~] instructor if the instructor:

11 (1) fails to meet a requirement for issuance of or  
12 holding a license under this chapter;

13 (2) permits or engages in misrepresentation, fraud, or  
14 deceit in applying for or obtaining a certificate, license, or  
15 permit;

16 (3) induces fraud or fraudulent practices on the part  
17 of an applicant for a driver's license or permit;

18 (4) permits or engages in any other fraudulent  
19 practice in an action between the applicant or license holder and  
20 the public;

21 (5) fails to comply with commission rules relating to  
22 driver instruction; or

23 (6) fails to comply with this chapter.

24 SECTION 4.57. Section 106.115(a), Alcoholic Beverage Code,  
25 is amended to read as follows:

26 (a) On the placement of a minor on deferred disposition for  
27 an offense under Section 49.02, Penal Code, or under Section

1 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court  
2 shall require the defendant to attend an alcohol awareness program  
3 approved by the Texas Department of Licensing and Regulation under  
4 this section or [~~7~~] a drug education program approved by the  
5 Department of State Health Services in accordance with Section  
6 521.374, Transportation Code [~~7, or a drug and alcohol driving~~  
7 ~~awareness program approved by the Texas Education Agency~~]. On  
8 conviction of a minor of an offense under one or more of those  
9 sections, the court, in addition to assessing a fine as provided by  
10 those sections, shall require a defendant who has not been  
11 previously convicted of an offense under one of those sections to  
12 attend an alcohol awareness program or [~~7~~] a drug education  
13 program [~~7, or a drug and alcohol driving awareness program~~]  
14 described by this subsection. If the defendant has been previously  
15 convicted once or more of an offense under one or more of those  
16 sections, the court may require the defendant to attend an alcohol  
17 awareness program or [~~7~~] a drug education program [~~7, or a drug and~~  
18 ~~alcohol driving awareness program~~] described by this subsection. If  
19 the defendant is younger than 18 years of age, the court may require  
20 the parent or guardian of the defendant to attend the program with  
21 the defendant. The Texas Department of Licensing and Regulation or  
22 Texas Commission of Licensing and Regulation, as appropriate:

23 (1) is responsible for the administration of the  
24 certification of approved alcohol awareness programs;

25 (2) may charge a nonrefundable application fee for:

26 (A) initial certification of the approval; or

27 (B) renewal of the certification;

1 (3) shall adopt rules regarding alcohol awareness  
2 programs approved under this section; and

3 (4) shall monitor, coordinate, and provide training to  
4 a person who provides an alcohol awareness program.

5 SECTION 4.58. Article 45.051(b-1), Code of Criminal  
6 Procedure, is amended to read as follows:

7 (b-1) If the defendant is younger than 25 years of age and  
8 the offense committed by the defendant is a traffic offense  
9 classified as a moving violation:

10 (1) Subsection (b)(8) does not apply;

11 (2) during the deferral period, the judge[+]

12 [~~(A)~~] shall require the defendant to complete a  
13 driving safety course approved under Chapter 1001, Education Code;  
14 and

15 [~~(B) may require the defendant to complete an~~  
16 ~~additional driving safety course designed for drivers younger than~~  
17 ~~25 years of age and approved under Section 1001.111, Education~~  
18 ~~Code, and]~~

19 (3) if the defendant holds a provisional license,  
20 during the deferral period the judge shall require that the  
21 defendant be examined by the Department of Public Safety as  
22 required by Section 521.161(b)(2), Transportation Code; a  
23 defendant is not exempt from the examination regardless of whether  
24 the defendant was examined previously.

25 SECTION 4.59. Section 28.012(a)(3), Education Code, is  
26 amended to read as follows:

27 (3) "Driver training provider [~~school~~]" has the

1 meaning assigned by Section 1001.001.

2 SECTION 4.60. Section 28.012(e), Education Code, is amended  
3 to read as follows:

4 (e) Subject to rules adopted by the board, a school district  
5 or open-enrollment charter school may tailor the instruction  
6 developed under this section as appropriate for the district's or  
7 school's community. In tailoring the instruction, the district or  
8 school shall solicit input from local law enforcement agencies,  
9 driver training providers [~~schools~~], and the community.

10 SECTION 4.61. Section 29.902(c), Education Code, is amended  
11 to read as follows:

12 (c) A school district shall consider offering a driver  
13 education and traffic safety course during each school year. If the  
14 district offers the course, the district may:

15 (1) conduct the course and charge a fee for the course  
16 in the amount determined by the agency to be comparable to the fee  
17 charged by a driver education provider [~~school~~] that holds a  
18 license under Chapter 1001; or

19 (2) contract with a driver education provider [~~school~~]  
20 that holds a license under Chapter 1001 to conduct the course.

21 SECTION 4.62. Section 123.007, Government Code, is amended  
22 to read as follows:

23 Sec. 123.007. USE OF OTHER DRUG AND ALCOHOL AWARENESS  
24 PROGRAMS. In addition to using a drug court program established  
25 under this chapter, the commissioners court of a county or a court  
26 may use other drug awareness [~~or drug and alcohol driving~~  
27 ~~awareness~~] programs to treat persons convicted of drug or alcohol

1 related offenses.

2 SECTION 4.63. Section 521.165(e), Transportation Code, is  
3 amended to read as follows:

4 (e) The department may authorize an entity described by  
5 Subsection (a), including a driver education provider [~~school~~]  
6 described by Section 521.1655, to administer the examination  
7 required by Section 521.161(b)(2).

8 SECTION 4.64. Sections 521.1655(a) and (a-1),  
9 Transportation Code, are amended to read as follows:

10 (a) An in-person [A] driver education provider or online  
11 driver education provider [~~school~~] licensed under Chapter 1001,  
12 Education Code, may administer to a student of that provider  
13 [~~school~~] the vision, highway sign, and traffic law parts of the  
14 examination required by Section 521.161.

15 (a-1) A parent-taught driver education [~~course~~] provider  
16 licensed [~~approved~~] under Chapter 1001, Education Code, [~~Section~~  
17 ~~521.205~~] may administer to a student of that course the highway sign  
18 and traffic law parts of the examination required by Section  
19 521.161.

20 SECTION 4.65. Sections 521.206(a) and (b), Transportation  
21 Code, are amended to read as follows:

22 (a) The department shall collect data regarding collisions  
23 of students taught by public schools, driver education providers  
24 [~~schools~~] licensed under Chapter 1001, Education Code, and other  
25 entities that offer driver education courses to students for which  
26 a uniform certificate of course completion is issued. The  
27 collision rate is computed by determining the number of an entity's

1 students who complete a driver education course during a state  
2 fiscal year, dividing that number by the number of collisions that  
3 involved students who completed such a course and that occurred in  
4 the 12-month period following their licensure, and expressing the  
5 quotient as a percentage.

6 (b) The department shall collect data regarding the  
7 collision rate of students taught by course instructors approved  
8 under Section 1001.112, Education Code. The collision rate is  
9 computed by determining the number of students who completed a  
10 course taught [~~approved~~] under that section [~~Section 1001.112,~~  
11 ~~Education Code,~~] during a state fiscal year, dividing that number  
12 by the number of collisions that involved students who completed  
13 such a course and that occurred in the 12-month period following  
14 their licensure, and expressing the quotient as a percentage.

15 SECTION 4.66. Section 521.222(a), Transportation Code, is  
16 amended to read as follows:

17 (a) The department may issue a learner license, including a  
18 Class A or Class B driver's learner license, to a person who:

19 (1) is 15 years of age or older but under 18 years of  
20 age;

21 (2) has satisfactorily completed and passed the  
22 classroom phase of an approved driver education course, which may  
23 be a course taught [~~approved~~] under Section 1001.112, Education  
24 Code;

25 (3) meets the requirements imposed under Section  
26 521.204(a)(3); and

27 (4) has passed each examination required under Section

1 521.161 other than the driving test.

2 SECTION 4.67. Section 542.304(a), Transportation Code, as  
3 added by Chapter 1094 (H.B. 2048), Acts of the 86th Legislature,  
4 Regular Session, 2019, is amended to conform to Section 4.40,  
5 Chapter 1352 (S.B. 346), Acts of the 86th Legislature, Regular  
6 Session, 2019, and is further amended to read as follows:

7 (a) The department by rule shall designate the offenses  
8 involving the operation of a motor vehicle that constitute a moving  
9 violation of the traffic law for the purposes of:

10 (1) [~~Article 102.022(a), Code of Criminal Procedure,~~  
11 [~~(2)~~] Section 1001.112(b)(4) [~~1001.112(a-2)~~],  
12 Education Code;

13 (2) [~~(3)~~] Section 411.110(f), Government Code; and

14 (3) [~~(4)~~] Sections 773.0614(b) and 773.06141(a),  
15 Health and Safety Code.

16 SECTION 4.68. The following provisions are repealed:

17 (1) Article 45.0511(u), Code of Criminal Procedure;

18 (2) Sections 1001.001(4), (7), (10), (11), and (14),  
19 Education Code;

20 (3) Section 1001.056(f), Education Code;

21 (4) Section 1001.1015(c), Education Code;

22 (5) Sections 1001.103 and 1001.111, Education Code;

23 (6) Section 1001.151(e), Education Code;

24 (7) Sections 1001.205 and 1001.208, Education Code;

25 (8) Section 1001.251(b), Education Code;

26 (9) Section 1001.2531(a), Education Code;

27 (10) Sections 1001.2532, 1001.2533, 1001.2534,

1 1001.2535, 1001.303, 1001.304, 1001.354, 1001.3541, and 1001.3542,

2 Education Code;

3 (11) the heading to Subchapter K, Chapter 1001,

4 Education Code;

5 (12) Section 545.412(g), Transportation Code; and

6 (13) Section 545.413(i), Transportation Code.

7 SECTION 4.69. On December 1, 2021:

8 (1) the terms of members serving on the driver  
9 training and traffic safety advisory committee under Section  
10 1001.058, Education Code, immediately before that date expire; and

11 (2) the presiding officer of the Texas Commission of  
12 Licensing and Regulation shall appoint members of the driver  
13 training and traffic safety advisory committee in accordance with  
14 Section 1001.058, Education Code, as amended by this article, with  
15 initial terms as follows:

16 (A) three members to terms expiring February 1,  
17 2023;

18 (B) three members to terms expiring February 1,  
19 2025; and

20 (C) three members to terms expiring February 1,  
21 2027.

22 SECTION 4.70. Not later than January 1, 2022, the Texas  
23 Department of Licensing and Regulation and the Department of Public  
24 Safety of the State of Texas shall enter into the memorandum of  
25 understanding required by Section 1001.060, Education Code, as  
26 added by this article.

27 SECTION 4.71. (a) Not later than January 1, 2023, the Texas

1 Commission of Licensing and Regulation shall adopt rules necessary  
2 to implement the changes in law made by this article to Chapter  
3 1001, Education Code.

4 (b) A driver education school license, driving safety  
5 school license, or course provider license issued under Chapter  
6 1001, Education Code, before the date the Texas Department of  
7 Licensing and Regulation implements the changes described in  
8 Subsection (a) of this section continues to be valid until the date  
9 the license expires. On expiration of that license, the license  
10 holder shall apply for a new license under Chapter 1001, Education  
11 Code, as amended by this article, to continue to provide services  
12 for which a license is required by that chapter.

13 SECTION 4.72. The changes in law made by this article to  
14 Section 106.115, Alcoholic Beverage Code, and Article 45.051, Code  
15 of Criminal Procedure, with respect to participation in a  
16 court-ordered program or course, apply to a court order entered on  
17 or after the effective date of this Act. A court order entered  
18 before that date is governed by the law in effect on the date the  
19 order was entered, and the former law is continued in effect for  
20 that purpose.

21 SECTION 4.73. To the extent of any conflict, this article  
22 prevails over another Act of the 87th Legislature, Regular Session,  
23 2021, relating to nonsubstantive additions to and corrections in  
24 enacted codes.

25 ARTICLE 5. EFFECTIVE DATE

26 SECTION 5.01. This Act takes effect September 1, 2021.